



## Frequently Asked Questions on the Expiring Bush Tax Cuts

With the recently passed health care bill and billions of dollars in tax cuts set to expire in January if nothing is done, tax policy in Washington has been and will continue to be busy in 2010. With all of this action comes many questions about what is actually going on. This page is designed to "set the scene" for the general public, policymakers, and media with unbiased information relating to the current state of the federal tax system and what is set to happen. If you have any questions that are not answered, e-mail us and we will consider adding them to the list. (Note: We do not answer specific personal tax questions.)

### **1) Q: [What are the "Bush tax cuts," why are they expiring this year, and what is likely to happen?](#)**

**A:** At the end of 2009, Congress froze up and let the estate tax expire, but if Congress is similarly paralyzed at the end of 2010, it won't be taxes that expire. It will be tax cuts. All the tax cuts enacted in 2001 and 2003 are scheduled to revert to 2001 law on January 1, 2011, because they were enacted on a 10-year temporary basis. Here is [a comprehensive list](#) of tax cuts expiring at the end of this year. Many are the so-called Bush tax cuts from his first term, but many have been enacted since, during both the Bush and Obama administrations.

The probability that Congress will just let all those tax cuts expire at the end of 2010 is small. The result would be a massive tax hike on middle-income people because the Bush tax cuts have been worth about \$2,200 in tax savings each year for the median family of four.

The most likely scenario is what President Obama has outlined in his budget: that the majority of the Bush tax cuts will be kept, but the ones that benefit couples who earn over \$250,000 and singles making over \$200,000 will either be allowed to revert to their higher, 2001 levels, or they will be raised in some other fashion.

There are other possibilities for how the income tax code could end up at the end of 2010. Senators Wyden and Gregg have introduced a tax reform bill, and a presidential commission will report in December on some tax and spending options that could address the nation's growing indebtedness. Congress may suggest raising taxes or cutting spending even before the commission reports. And of course, there are already new taxes as part of the health care bill, quite apart from the expiring tax cuts.

Below, see a selected list of the tax increases that could occur on January 1, 2011. These are only the most well known provisions of the Bush tax cuts that, if allowed to expire, would come to the immediate attention of the nation's taxpayers.

- The two "marriage penalty elimination" provisions will expire, so that:
  - The standard deduction for married couples will fall, no longer double what it is for single filers; and
  - The ceiling of the 15% bracket for married couples will fall, no longer double what it is for single filers
- The 10% tax bracket will expire, reverting to 15%
- The child tax credit will fall from \$1,000 to \$500
- The tax rate on long-term capital gains earned by middle- and upper-income people would rise from 15% to 20%
- The tax rate on qualified dividends earned by middle- and upper-income people would rise from 15% to ordinary wage tax rates
- The 25% tax rate would rise to 28%
- The 28% rate would rise to 31%
- The 33% rate would rise to 36%
- The 35% rate would rise to 39.6%
- The PEP and Pease provisions would be restored, rescinding from high-income people the value of some exemptions and deductions
- The estate tax would be restored with an exemption level of \$1 million and rates that top out at 55%

The plan outlined in the Obama administration's budget is to allow only one of those 12 provisions to revert exactly to what it was in early 2001:

- The top tax rate will revert from 35% to 39.6%

Five of those dozen major provisions will change, but they won't go back to exactly what they were in 2001:

- Estate tax law will revert to 2009 instead of 2001: exemption of \$3.5 million and top rate of 45%
- Rate on long-term capital gains will revert to 2001 law (rate of 20%) but only for couples with over \$250,000 in AGI the year the gain is realized (\$200K threshold for singles)
- Dividends will be taxed just like long-term capital gains
- The 33% tax rate will revert to 2001 law (rate of 36%) but the income threshold where that bracket starts will shift up to \$250,000 in taxable income (couples) and \$200,000 for singles
- The PEP and Pease provisions will be restored, rescinding from high-income people the value of some exemptions and deductions, but the income threshold where they start to pay more will shift up to \$250,000 in taxable income (couples) and \$200,000 for singles

The other 6 of the 12 major Bush tax cut provisions for individuals listed above will be preserved as enacted during the Bush years.

There are many other provisions that will expire, including EITC eligibility levels, Roth IRA provisions, and others, not to mention Obama's biggest tax cut, the making-work-pay credit, which was a one-year tax cut in 2009 that was renewed for 2010. [See the complete roster.](#)

## 2) Q: [How much did the Bush tax cuts cost the Treasury in foregone revenue?](#)

**A:** There is no definitive answer to the question of how much the Bush tax cuts cost the Treasury in foregone revenue from 2001 to 2010.

First, there is much disagreement pertaining to the feedback effect that resulted from the tax cuts. No tax cut that has significant marginal rate cuts, as the Bush tax cuts did, will cost the Treasury its full "static" score. Static in this sense means that people don't change their behavior when tax rates drop or rise: if a 40% tax rate raises \$500 billion, then a 20% tax rate would raise \$250 billion. This is wrong because people do change their behavior when faced with such starkly lower tax rates. They earn more money, which generates additional tax revenue. Just how much is hard to estimate.

When the Kennedy tax cut dropped the top income tax rate from 91% to 70%, or when the Reagan tax cut dropped it from 70% to 50%, it is quite possible that the lower rates raised more revenue than the old, higher rates would have. On the other hand, few if any of today's tax rates are so high that cutting them would generate a surge of income-producing activity so large that revenue would rise. There will certainly be a feedback effect, just not such a massive amount. When revenue rises after cuts in a moderate-to-high tax rate, it is usually because of economic activity that would have occurred without the tax cuts. Furthermore, a significant chunk of the cost of the Bush tax cuts has little effect on marginal economic behavior, such as the 10 percent rate creation, the increase of the standard deduction for married couples and the child tax credit increase. (These specific provisions could even cost more than their static score due to the "income effect.")

Second, unfortunately, no governmental organization such as Congress's Joint Committee on Taxation (JCT) has done a hindsight look at how much the tax cuts have cost. JCT did score the original tax cuts when they were proposed, but those scores required assumptions about future tax law and economic performance that turned out to be incorrect. However, many people still cite the original JCT estimate, which was that the Bush tax cuts (2001 and 2003) would, over the 10-year period, allow taxpayers to keep \$1.6 trillion dollars that they would have remitted in taxes under the Clinton-era rates. Among the various provisions, the largest was the new 10% tax bracket, which saved taxpayers \$400 billion, or one-fourth of the total package.

The only place we could find a recent hindsight estimate of the cost of the Bush tax cuts came from the liberal Citizens for Tax Justice who used it as an opportunity to compare the Bush tax cuts' cost to health care reform. [According to CTJ](#), the Bush tax cuts that were passed up through 2006 (the 2001 and 2003 cuts as well as other smaller cuts in 2004, 2005 and 2006) ended up costing the Treasury approximately \$2.1 trillion in foregone revenue from 2001 to 2010. CTJ claims that if you add interest payments, that number goes up to around \$2.5 trillion.

These numbers were calculated using CTJ's ITEP model. From what we could tell from their methodology paper, they assumed no feedback effect that would generate additional revenue. With that caveat, there is no reason to doubt these numbers. Therefore, the \$2.1 trillion cost (\$2.5 trillion with interest) on the Bush tax cuts is a high-end estimate. Note that also included in CTJ's \$2.1 trillion estimate is the cost of annually adjusting AMT, which was technically not part of most of the "Bush tax cuts." (The annual cost of "patching" AMT went up as a result of the Bush tax cuts because the Bush tax cuts reduced mostly regular income taxes and taxpayers pay the higher of their regular income tax and their alternative minimum tax.)

Using CTJ's numbers, if one assumes that 20 percent of the tax cuts paid for themselves (overall), the non-interest cost would be approximately \$1.7 trillion. If one assumes that half of the tax cuts paid for themselves (which we would consider to be a pretty extreme assumption), then the tax cuts would have cost around \$1 trillion over the past 10 years.

Note: Neither the Tax Foundation, JCT, nor the Tax Policy Center have done a recent (i.e. post-financial crisis) hindsight analysis of the cost of the Bush tax cuts, which is why we cited CTJ's numbers exclusively.

### 3) Q: [Who received the biggest tax savings from the tax cuts?](#)

**A:** With the possible exception of the war in Iraq, no single policy question was more debated during President Bush's term than who benefited most from the tax cuts that were passed while he was in office.

Critics of the tax cuts not only charged that the tax cuts were unaffordable, but that too large a share of the tax cuts went to taxpayers with the highest incomes.

The answer to the question of who benefited the most from the tax cuts ultimately depends upon answers to two other questions: (1) How do you measure benefit? and (2) How are the tax cuts financed?

Ignoring the financing, the answer to the question depends upon how you measure "benefit." Normally, tax cuts are measured in the same way as raises at work: What percentage did you get? If a person making \$40,000 gets a 20% raise to \$48,000, obviously that's a "better raise" than a person who gets a 5% raise from \$200,000 to \$210,000. However, if one looks solely at the dollar amounts, the higher-income person got a \$10,000 raise while the lower-income person got \$8,000.

It is similar for tax cuts. Virtually every tax return received a tax cut as a result of the 2001 and 2003 Bush tax cuts. Even many tax returns at the very bottom of the income scale who paid no income tax to the IRS saw an increase in their refundable credit amount. That's why if one measures "benefit" in terms of the percent change in one's tax bill, low-income earners benefited the most from the tax cuts. However, if raw dollar amounts per person is what one measures, then the higher-income the person, the more benefits the tax cuts delivered.

On the other hand, liberal groups such as the Center on Budget and Policy Priorities point to the fact that after-tax income inequality (as measured by shares of after-tax income) being higher as a result of the tax cuts proves that the tax cuts were regressive. Taken to its extreme, however, this position could lead to the paradox where redistribution to low-income earners actually increased but tax progressivity actually fell.

If one brings the financing question into the equation, the answer is even more ambiguous. If spending reductions finance tax cuts, then the rich benefit more because low-income earners benefit disproportionately from government spending (as a whole).

If other tax hikes have financed the tax cuts, then it depends on whether that tax hike is more or less regressive than the Bush tax cuts. If such a tax hike were an across-the-board tax like a VAT, then it would likely be the case that the Bush tax cuts benefited the rich the most. If the tax cuts are eventually financed by tax increases on high-income earners only, then such a policy over time would be a progressive shift in taxation.

Note that technically, if one looks at the question from a generational distributive perspective, the answer to whether "the rich" or "the poor" benefited most is somewhat ambiguous. Future generations are almost always wealthier than previous generations, which would mean, for example, that deficit-financed tax cuts in one generation at the expense of future generations, *ceteris paribus*, would actually be progressive. On the other hand, if the future tax hike is significantly more regressive than the current generation tax cut (such as a VAT being put in place relatively soon to finance the Bush tax cuts), the intergenerational redistribution may actually be regressive.

**4) Q: Why were the tax cuts temporary (i.e. not made permanent) when they were passed in 2001 and 2003?**

**A:** Why are the Bush tax cuts, which were passed primarily in 2001 and 2003, expiring at the end of this tax year? In other words, why weren't they made permanent?

During the legislative fight over tax cuts in 2001, Senate Republicans could not predict with certainty that they would reach the 60-vote threshold of support that would have enabled them to make the tax cuts permanent. As a result, when Congress passed the first of many tax cuts during the last decade in May 2001, it passed it as a reconciliation bill which needs only 51 votes. That was the so-called Bush tax cut, formally known as the Economic Growth and Tax Relief Reconciliation Act (EGTRRA, pronounced egg-tray).

Reconciliation was devised in 1974 as a way to for the Senate to deal more effectively with budget bills, but it soon became a technique to limit amendments and debate. In 1985, the Senate added the so-called Byrd rule to reconciliation. Named after Senator Robert Byrd, the rule forbids a bill passed under reconciliation from, among other things, altering federal revenue for more than 10 years. Any senator may object that a provision violates that stricture, and if the presiding officer agrees, a vote of 60 senators is required to overturn the ruling.

In 1999, the Senate for the first time used reconciliation to pass legislation that would increase deficits: the Taxpayer Refund and Relief Act 1999. The budget was in surplus at the time, but it was still controversial. In any case, President Clinton vetoed the bill. A year later the Senate again used reconciliation to pass the Marriage Tax Relief Reconciliation Act of 2000, which President Clinton also vetoed.

Overall, 62 senators supported H.R. 1836 as amended by the Senate, thereby sending it to conference. In the end, 58 senators voted in favor of the conference report. Nevertheless, because the bill was passed under reconciliation, revenues further than 10 years in the future could not be changed. And so, on December 31, 2010, all of EGTRRA will expire and revert to 2001 law.

The 2003 tax cuts mostly accelerated the original tax cuts, but also put in place new tax cuts for dividends and capital gains. The 2003 tax cut, known as the Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA) was also passed under reconciliation.

Tallies of how members of Congress voted on the final versions of each of the two major tax cuts (2001 and 2003):

- Senate vote on passage of 2001 tax cuts: [http://www.senate.gov/legislative/LIS/roll\\_call\\_lists/roll\\_call\\_vote\\_cfm.cfm?congress=107&session=1&vote=00170](http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=107&session=1&vote=00170)
- House vote on passage of 2001 tax cuts: <http://clerk.house.gov/evs/2001/roll149.xml>
- Senate vote on passage of 2003 tax cuts: [http://www.senate.gov/legislative/LIS/roll\\_call\\_lists/roll\\_call\\_vote\\_cfm.cfm?congress=108&session=1&vote=00196](http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=108&session=1&vote=00196)
- House vote on passage of 2003 tax cuts: <http://clerk.house.gov/evs/2003/roll225.xml>

Legislation (text, timeline, etc.) of the two major tax cuts:

- 2001 legislation: <http://thomas.loc.gov/cgi-bin/bdquery/z?d107:h.r.01836>
- 2003 legislation: <http://thomas.loc.gov/cgi-bin/bdquery/z?d108:h.r.00002>

### **5) Q: What is going on with President Obama's tax cuts, specifically those in the so-called stimulus bill?**

**A:** The "American Recovery and Reinvestment Tax Act of 2009" contained eight provisions affecting the individual income tax: (1) the "Making Work Pay" tax credit; (2) an extension of the so-called "AMT patch" through 2009; (3) increased eligibility for the refundable child tax credit; (4) the creation of the partially refundable "American Opportunity" education tax credit; (5) an expansion and extension of the "homebuyer" tax credit; (6) an increase of the earned income tax credit; (7) temporary exclusion of unemployment benefits from taxation; and (8) the sales tax deduction for automobile purchases.

While the homebuyer credit extension cited above expired in November 2009, it was extended once again until April 2010, when it eventually expired. Obama has not indicated he would support bringing that credit back.

President Obama's budget has proposed extending the life of the "Making Work Pay" tax credit through 2011 and indexing AMT exemptions to inflation each year. The administration would also continue increased eligibility for the refundable child tax credit and continue the "American Opportunity Credit." It has also proposed continuing the increase of the earned income tax credit called for in the stimulus plan. Finally, in his budget, the President calls for the provisions allowing exclusion of unemployment benefits from taxation and the sales tax deduction for automobile purchases to expire.

## 6) Q: [How does this all interact with the Alternative Minimum Tax \(AMT\)?](#)

**A:** The federal individual income tax is really two tax systems: the ordinary individual income tax and the much-maligned alternative minimum tax system. Individuals are required to calculate their tax liability under both systems and then pay the higher tax.

Over the past decade, the AMT has been in the news because the so-called Bush tax cuts enacted in 2001 and 2003 altered the ordinary system while leaving the AMT largely unchanged. For low- and middle-income people, the AMT was almost always irrelevant. They got their tax cuts as advertised. For upper-income people, the AMT made things more complicated.

During the 1990s, roughly two percent of taxpayers, almost all upper-income people, had financial arrangements that resulted in their owing more under the AMT than under the regular system. For those people, the cutting of their regular tax liability in 2001 and 2003 had little effect. They still had to pay the higher of the two calculations, and that was still the AMT.

A much more common situation was that upper-income people (say, between \$150,000 and \$1 million) had always owed more under the regular system than they did under AMT, and so they were hardly aware of the AMT. But then, during the 2001-2003 period, they got such substantial tax cuts that suddenly their AMT liability was higher than their regular liability. In effect, the AMT "took back" some of their tax cut, usually a fairly small fraction. In no case did anyone owe more under the Bush tax cuts than they would have in their absence, but because of their sudden discovery of the AMT, many people who should have known better talked as if their taxes had been raised, that they had been "victimized" or "trapped" by the AMT.

Congress's response to this outrage was to enact an annual AMT "patch" so that the number of people hit by AMT did not grow, which would have happened in the absence of a "patch." That meant raising the income level that is automatically exempt from the AMT. To have enacted such a high exemption level permanently would have been a large tax cut, and a politically difficult measure. And so throughout the past decade, during the Bush years and continuing in the Obama years, Congress passes and the President signs a one- or two-year patch to prevent AMT from hitting 20 million more taxpayers. The current tax year (2010) is no exception. As of current law, 25 million taxpayers are set to be hit by AMT this year. But Congress is expected to "patch" AMT for 2010 at some point this year, which would reduce the number hit by AMT to around 5 million.

In his budget, President Obama has proposed extending most of the tax cuts for families making less than \$250,000 (\$200,000 for singles) and permanently patching the AMT. As it has done in the past, the patch will shield many filers with adjusted gross incomes in the \$75,000 to \$250,000 range from liability under the AMT. Meanwhile, an increase in the top two ordinary tax rates will ensure that most taxpayers subject to these rates will have a higher liability under the ordinary system than under the AMT. Together, these two measures would cause the AMT to recede, once again, into relative obscurity.

**7) Q: What are PEP and Pease, and how were they affected by the tax cuts?**

**A:** The answer to this question can be found in the Tax Foundation Special Report “PEP and Pease: Repealed for 2010 But Preparing a Comeback.” From the report:

In discussions of raising or lowering federal income tax revenue, two common terms are PEP and Pease. These tax provisions are little known to the taxpaying public because only people with annual incomes well above average have to face the consequences of complying with them. However, these provisions are worth understanding.

Since their enactment 20 years ago, the debate over PEP and Pease has been emblematic of a larger debate in tax policy: When the government demands more revenue from taxpayers, what is the least damaging way for it to do so? Should it raise statutory tax rates or repeal targeted deductions and exemptions? And similarly, when the government decides to cut taxes, should it do so by granting more deductions and exemptions, or should it cut statutory tax rates?

This year a discussion of PEP and Pease is especially timely. For the first time in 20 years, neither law is in effect, both having been repealed for tax year 2010 and only that year. They are scheduled to be reinstated on the expiration date of the ten-year, temporary tax cuts commonly known as the Bush tax cuts. Although President Obama's budget proposes that most of the Bush tax cuts be kept in law, he calls for PEP and Pease to be reinstated, so in all likelihood the provisions' absence from the 1040 during 2010 will be a one-year phenomenon.

The first, PEP, refers to the personal exemption phase-out, which rescinds the benefit of the personal exemption from taxpayers who earn over a certain amount. Pease is a similar phase-out, but instead of applying to the personal exemption, it applies to most of the itemized deductions a taxpayer claims, from the well known deductions for mortgage interest, charitable gifts, and state-local taxes paid to more obscure deductions for union dues, tax preparation fees and safety deposit box expenses. Named after Representative Donald Pease (D-OH) who pushed for its enactment in 1990, this law rescinds up to 80 percent of the value of a taxpayer's itemized deductions if the taxpayer's income is deemed too high.

The value of the personal exemptions and itemized deductions were gradually restored starting in 2006, and in 2010 they were completely restored by repealing the PEP and Pease provisions. However, the Obama Budget envisions restoring the PEP and Pease provisions for all single taxpayers with over \$200,000 in AGI and couples with over \$250,000. This will combine with statutory rate increases to significantly raise the marginal tax rates of high-wage tax filers.

Read the full report at <http://www.taxfoundation.org/files/sr178.pdf>.

**8) Q: Can you provide a complete list of the tax provisions expiring at the end of this year (2010)?**

**A:** If nothing is done by Congress on tax policy from now until December 31, massive tax changes will take place. The odds of Congress doing absolutely nothing are small, but it is worth considering why

Congress is highly likely to address the tax code this year: it is because so many key provisions are scheduled to change when the ball drops on January 1, 2011.

Most of the key provisions that expire at the end of 2010 were put in place with the 2001 and 2003 tax cuts, often called the "Bush tax cuts." There were other tax changes that took place during Bush's term that are set to expire at the end of 2010, and President Obama has also pushed through some changes in tax law that are set to expire at the end of 2010.

The table below presents a complete list of the tax provisions scheduled to expire at the end of 2010 (as of March 19, 2010). Note that there were some key tax provisions that technically "expired" at the end of 2009, but which will likely be retroactively put back into law such as an AMT patch for 2010 and the infamous list of "tax extenders." Most of these provisions will likely be extended another year, and thereby also be scheduled to expire on December 31. For a list of these provisions that expired at the end of 2009, [click here](#). (The source for these expiring provisions is the Joint Committee on Taxation's report of expiring tax provisions.)

## **Major Individual Income Tax Provisions**

Increase of the size of 15 percent rate bracket for married filers to double that of unmarried filers (sec. 1(f)(8) and sec. 901 of Pub. L. No. 107-16).

Increase of the standard deduction for married filers to double that of unmarried filers (sec. 63(c)(2)(A) and sec. 901 of Pub. L. No. 107-16).

Reduced capital gain rates for individuals (secs. 1(h)(1)(B), 1(h)(1)(C), 55(b)(3)(B), 55(b)(3)(C), 57(a)(7), 1445(e)(1), 7518(g)(6)(A) and sec. 102 of Pub. L. No. 109-222).

Dividends of individuals taxed at capital gain rates (secs. 1(h)(11), 163(d)(4)(B), 854(a), 854(b) and 857(c) and sec. 102 of Pub. L. No. 109-222).

Ten percent individual income tax rate (sec. 1(i) and sec. 901 of Pub. L. No. 107-16).

Reduction in other individual income tax rates — size of 15 percent rate bracket modified to reflect 10 percent rate, and 28 percent, 31 percent, 36 percent and 39.6 percent rates are reduced to 25 percent, 28 percent, 33 percent and 35 percent, respectively (sec. 1(i)(2) and sec. 901 of Pub. L. No. 107-16).

Child credit — increase from \$500 to \$1,000, expand eligibility for refundable portion of the credit, AMT relief, provide that child credit not treated as income or resources for purposes of benefit or assistance programs financed in whole or in part with Federal funds (secs. 24(a) and (b)(3) and secs. 203 and 901 of Pub. L. No. 107-16).

Earned income tax credit ("EITC") - increase in the beginning point of the phase-out range for joint returns, modification of EITC treatment of amounts not includible in income, repeal of reduction of EITC for AMT liability, expansion of math error authority (secs. 32(b)(2), (c)(2)(A)(i), (h), and 6213(g)(2) and sec. 901 of Pub. L. No. 107-16).

Repeal of the personal exemptions phase-outs ("PEP") for high income taxpayers (sec. 151(d)(3)(F) and sec. 901 of Pub. L. No. 107-16).

Repeal of overall limitation on itemized deductions (the "Pease limitation") (sec. 68(g) and sec. 901 of Pub. L. No. 107-16)

Dependent care credit — increase of dollar limit on creditable expenses from \$2,400 to \$3,000 (\$4,800 to \$6,000 for two or more children), increase of applicable credit percentage from 30 to 35 percent, increase of beginning point of phase-out range from \$10,000 to \$15,000 (secs. 21(a)(2) and 21(c) and sec. 901 of Pub. L. No. 107-16).

Adoption credit and adoption assistance exclusion — increase to \$10,000 for maximum credit and maximum exclusion, special needs adoptions deemed to have \$10,000 eligible expenses for purposes of credit and exclusion, increase the beginning and ending points of phase-out range for credit and exclusion, the credit is allowed against AMT (secs. 23 and 137 and sec. 901 of Pub. L. No. 107-16).

Student loan interest deduction — increase and indexation for inflation of the phase-out ranges, repeal of the limit on the number of months that interest payments are deductible, repeal of the rule that voluntary payments of interest are not deductible (sec. 221 and sec. 901 of Pub. L. No. 107-16).

Education IRAs (Coverdell education savings accounts) — increase of maximum annual contribution from \$500 to \$2,000, expansion of definition of qualified education expenses, increase in the size of the phase-out range for married filers to double that of unmarried filers, provision of special needs beneficiary rules, contributions by corporations and other entities, and contributions until April 15th, permitted (secs. 530(b)(1), (b)(2), (b)(4), (c)(1), (d)(2) and sec. 901 of Pub. L. No. 107-16).

## **Estate Tax Provisions**

Modified carryover basis rules for property acquired from a decedent who dies during 2010 (secs. 1022, 1040, 6018, and 6716 and sec. 901 of Pub. L. No. 107-16).

Estate tax deduction for State death taxes paid (secs. 2011, 2053, 2058, 2102, 2106, and 2604 and sec. 901 of Pub. L. No. 107-16).

Expansion and clarification of estate tax conservation easement rules (secs. 2031(c)(2) and (c)(8)(A)(i) and sec. 901 of Pub. L. No. 107-16).

Temporary repeal of the estate and generation-skipping transfer taxes (secs. 2210 and 2664 and sec. 901 of Pub. L. No. 107-16).

Reduction in the maximum gift tax rate to 35 percent (sec. 2502 and sec. 901 of Pub. L. No. 107-16).

Treatment of certain transfers in trust as taxable gifts under section 2503 (sec. 2511(c) and sec. 901 of Pub. L. No. 107-16).

Repeal of the qualified family-owned business deduction (sec. 2057 and sec. 901 of Pub. L. No. 107-16).

Modifications to generation-skipping transfer tax rules regarding deemed allocations of exemption to certain transfers in trust, severing of trusts, valuation, and relief for late elections (secs. 2632(c) and 2642(a)(3), (b)(1) and (b)(2)(A) and sec. 901 of Pub. L. No. 107-16).

Modifications to estate tax installment payment rules (secs. 6166(b)(1)(B)(ii), (b)(1)(C)(ii), (b)(8)(B), (b)(9)(B)(iii)(I) and (b)(10) and sec. 901 of Pub. L. No. 107-16).

### **Other Tax Provisions**

Expand from 90 days to 120 days the postponement of certain tax-related deadlines in the case of Presidentially declared disasters (sec. 7508A(a) and sec. 901 of Pub. L. No. 107-16).

Credit for employer-provided child care (sec. 45F and sec. 901 of Pub. L. No. 107-16).

Elimination of tax on awards under the National Health Service Corps Scholarship Program and the F. Edward Hébert Armed Forces Health Professions Scholarship and Financial Assistance Program (sec. 117(c)(2) and sec. 901 of Pub. L. No. 107-16).

Employer-provided educational assistance — expansion to graduate education and making the exclusion permanent (sec. 127(c)(1) and sec. 901 of Pub. L. No. 107-16).

Tax-exempt bonds for educational facilities — increase in amount of bonds qualifying for small-issuer arbitrage rebate exception, expansion of tax-exempt bond treatment to public school facilities (secs. 142(a)(13) and (k), 148(f)(4)(D)(vii) and sec. 901 of Pub. L. No. 107-16).

Repeal of collapsible corporation rules (sec. 341 and sec. 102 of Pub. L. No. 109-222).

Modified tax treatment of electing Alaska Native Settlement Trusts and their beneficiaries (sec. 646 and sec. 901 of Pub. L. No. 107-16).

### **Obama Stimulus Provisions Scheduled to Expire on December 31, 2010**

#### **Major Individual Income Tax Provisions**

Making Work Pay credit (sec. 36A).

Refundable child credit floor amount (sec. 24(d)).

American Opportunity Tax credit (sec. 25A(i)).

Earned income tax credit: a. Credit percentage of 45 percent for three or more qualifying children (sec. 32(b)(3)(A)); b. Phase-out threshold for marriage penalty relief (sec. 32(b)(3)(B)).

Modification of AMT limitations on tax-exempt bonds (secs. 57(a)(5)(C)(vi) and 56(g)(4)(B)(iv)).

#### **Other Provisions**

Increase in dollar limitations for expensing to \$125,000/500,000 (indexed) (secs. 179(b)(1) and (2), (c)(2), and (d)(1)(A)(ii)).

Credit for certain nonbusiness energy property (sec. 25C(g)).

Alternative fuel vehicle refueling property (non-hydrogen refueling property) (sec. 30C(g)(2)).

Enhanced credit for health insurance costs of eligible individuals (sec. 35(a)).

Election of investment credit in lieu of production tax credit (sec. 48(a)(5)).

Grants for specified energy property in lieu of tax credits (sec. 48(d) and sec. 1603 of Pub. L. No. 111-5).

Work opportunity tax credit targeted group status for unemployed veterans and disconnected youth (sec. 51(d)(14)).

Qualified school construction bonds – allocation of bond authority (sec. 54F(c)(3)).

Authority to issue Build America Bonds (secs. 54AA(d)(1)(B) and 6431(a)).

Deferral and ratable inclusion of income from business debt discharged by reacquisition (sec. 108(i)).

Parity for exclusion from income for employer-provided mass transit and parking benefits (sec. 132(f)).

Expansion of availability of industrial development bonds to facilities manufacturing intangible property (sec. 144(a)(12)(C)).

Modification of small issuer exception to tax-exempt interest allocation rules for financial institutions (sec. 265(b)(3)(G)).

Computer technology and equipment allowed as a qualified higher-education expense for section 529 accounts (sec. 529(e)(3)(A)(iii)).

Special rules for qualified small business stock (sec. 1202(a)(3)).

Reduction in S corporation recognition period for built-in gains tax (sec. 1374(d)(7)).

Authority to issue recovery zone economic development bonds and facility bonds (secs. 1400U-2(b) and 1400U-3(b)).

## **Other Tax Changes Scheduled to Expire on December 31, 2010**

### **Energy Provisions**

Alternative motor vehicle credit for advanced lean burn technology motor vehicles and qualified hybrid motor vehicles that are passenger automobiles or light trucks (sec. 30B(k)(2)).

Alternative motor vehicle credit for qualified alternative fuel vehicles (sec. 30B(k)(4)).

Alternative fuel vehicle refueling property — increase in credit rate and credit cap (sec. 30C(e)(6)).

Incentives for alcohol fuels: a. Alcohol fuels income tax credit (alcohol fuel, alcohol used to produce a qualified mixture, and small ethanol producers) (secs. 40(e)(1)(A), (h)(1), and (h)(2)); b. Alcohol fuel mixture excise tax credit and outlay payments (secs. 6426(b)(6) and 6427(e)(6)(A)).

Credit for energy efficient appliances (sec. 45M(b)).

Natural gas distribution lines treated as 15-year property (sec. 168(e)(3)(E)(viii)).

### **Housing Provisions**

Qualified mortgage bonds for refinancing of subprime loans (sec. 143(k)(12)).

Volume cap increase and set-aside for private activity bonds for housing (secs. 146(d)(5) and (f)(6)).

Bonds guaranteed by Federal Home Loan banks eligible for treatment as tax-exempt bonds (sec. 149(b)(3)(A)(iv)).

Premiums for mortgage insurance deductible as interest that is qualified residence interest (sec. 163(h)(3)).

### **Other Provisions**

Qualified zone academy bonds — allocation of bond authority (sec. 54E(c)(1)).

Exclusion from income for benefits provided to volunteer firefighters and emergency medical responders (sec. 139B).

Five-year amortization of music and music copyrights (sec. 167(g)(8)).

De minimis safe harbor exception for tax-exempt interest expense of financial institutions (secs. 265(b)(7) and 291(e)(1)(B)(iv)).

**9) Q: What tax provisions expired at the end of 2009 along with the AMT patch, and what are the chances these will once again be extended retroactively?**

**A:** Each year, there is a list of tax provisions that Congress tends to procrastinate on throughout the year, eventually extending them at the last minute. Once again, Congress has allowed many tax provisions to technically expire at the end of 2009. As of the time this was written (May 24, 2010), Congress was debating but had not yet passed any extenders legislation for 2010 to send to Pres. Obama for his signature. These extenders include, among other things, the so-called AMT patch, which increases the AMT exemption. This page will be updated if/when Congress passes an extenders package for 2010 to list those extenders that were indeed extended and those that were not.

The full list of these provisions that expired on December 31, 2009 is below. Most of this list comes directly from the Joint Committee on Taxation (JCT). Each item includes its specific reference in tax law, again courtesy of JCT.

**Popular Individual Income Tax Provisions (including two key AMT patch provisions)**

Personal tax credits allowed against regular tax and alternative minimum tax ("AMT")  
(sec. 26(a)(2))<sup>3</sup>

Increased AMT exemption amount  
(sec. 55(d)(1))

Deduction for certain expenses of elementary and secondary school teachers  
(sec. 62(a)(2)(D))

Additional standard deduction for State and local real property taxes  
(sec. 63(c)(7))

Exclusion of unemployment compensation benefits from gross income  
(sec. 85(c))

Deduction for State and local general sales taxes  
(sec. 164(b)(5))

Deduction for State sales tax and excise tax on the purchase of motor vehicles  
(sec. 164(b)(6)(G))

Above-the-line deduction for qualified tuition and related expenses  
(sec. 222(e))

**Other Extenders (mostly business related)**

Alternative motor vehicle credit for qualified hybrid motor vehicles other than passenger automobiles and light trucks  
(sec. 30B(k)(3))

Income tax credits for biodiesel fuel, biodiesel used to produce a qualified mixture, and small agri-biodiesel producers  
(sec. 40A(g))

Income tax credits for renewable diesel fuel and renewable diesel used to produce a qualified mixture  
(sec. 40A(g))

Excise tax credits and outlay payments for biodiesel fuel mixtures  
(secs. 6426(c)(6) and 6427(e)(6)(B))

Excise tax credits and outlay payments for renewable diesel fuel mixtures  
(secs. 6426(c)(6) and 6427(e)(6)(B))

Tax credit for research and experimentation expenses  
(sec. 41(h)(1)(B))

Increase in low-income housing credit volume cap  
(sec. 42(h)(3)(I))

Election to substitute grants to States for low-income housing projects for low-income housing credit allocation  
(sec. 42(i)(9) and sec. 1602 of Pub. L. No. 111-5)

Credit for electricity produced at open-loop biomass facilities placed in service before October 22, 2004  
(sec. 45(b)(4)(B)(ii))

Placed-in-service date for facilities eligible to claim the refined coal production credit  
(sec. 45(d)(8))

Indian employment tax credit  
(sec. 45A(f))

New markets tax credit  
(sec. 45D(f)(1))

Credit for certain expenditures for maintaining railroad tracks  
(sec. 45G(f))

Production of low sulfur diesel fuel credit for small refiners - period for incurring qualified expenditures in compliance with Environmental Protection Agency ("EPA") sulfur regulations  
(sec. 45H(c)(4))

Placed-in-service date for eligibility for tax credit for the production of coke or coke gas  
(sec. 45K(g)(1))

Credit for construction of new energy efficient homes (sec. 45L(g))

Mine rescue team training credit (sec. 45N)

Employer wage credit for activated military reservists  
(sec. 45P)

Issuance of clean renewable energy bonds ("CREBs")  
(sec. 54(m))

Suspension of applicable high-yield debt obligation rules for debt issued in an exchange or as a result of  
modification  
(sec. 163(e)(5))

Five-year depreciation for farming business machinery and equipment  
(sec. 168(e)(3)(B)(vii))

15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings  
and improvements, and qualified retail improvements  
(secs. 168(e)(3)(E)(iv), (v), (ix), 168(e)(7)(A)(i) and (e)(8)(E))

Seven-year recovery period for motorsports entertainment complexes  
(sec. 168(i)(15))

Accelerated depreciation for business property on an Indian reservation  
(sec. 168(j)(8))

Additional first-year depreciation for 50 percent of basis of qualified property  
(sec. 168(k)(2))

Election to accelerate AMT and research credits in lieu of additional first-year depreciation  
(sec. 168(k)(4))

Special rules for contributions of capital gain real property made for conservation purposes  
(secs. 170(b)(1)(E) and 170(b)(2)(B))

Enhanced charitable deduction for contributions of food inventory  
(sec. 170(e)(3)(C))

Enhanced charitable deduction for contributions of book inventories to public schools  
(sec. 170(e)(3)(D))

Enhanced charitable deduction for corporate contributions of computer equipment for educational  
purposes  
(sec. 170(e)(6)(G))

Extended net operating loss ("NOL") carryback period  
(sec. 172(b)(1)(H))

Increase in expensing to \$250,000/\$800,000  
(sec. 179(b)(7))<sup>6</sup>

Election to expense advanced mine safety equipment (sec. 179E(a))

Expensing of capital costs incurred by small refiners for production of diesel fuel in compliance with EPA sulfur regulations  
(sec. 179B(a))

Special expensing rules for certain film and television productions  
(sec. 181(f))

Expensing of "brownfields" environmental remediation costs  
(sec. 198(h))

Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico  
(sec. 199(d)(7))

Allowance of additional IRA contributions in certain bankruptcy cases  
(sec. 219(b)(5)(C))

Waiver of minimum required distribution rules for IRAs and defined contribution plans (sec. 401(a)(9)(H))

Tax-free distributions from individual retirement plans for charitable purposes  
(sec. 408(d)(8))

Special rule for sales or dispositions to implement Federal Energy Regulatory Commission ("FERC") or State electric restructuring policy  
(sec. 451(i))

Modification of tax treatment of certain payments to controlling exempt organizations  
(sec. 512(b)(13)(E)(iv))

Exclusion of gain or loss on sale or exchange of certain brownfield sites from unrelated business taxable income  
(sec. 512(b)(19)(K))

Suspension of 100 percent-of-net-income limitation on percentage depletion for oil and gas from marginal wells  
(sec. 613A(c)(6)(H)(ii))

Mineral royalties treated as qualified real estate investment trust ("REIT") income for timber REITs  
(sec. 856(c)(2)(I))

Treatment of timber gains of REITs  
(secs. 856(c)(5)(H)(iii) and 856(c)(8))

Sales by REITs of timber property held at least two years to qualified organizations for conservation purposes treated as sale of property held for investment or used in a trade or business (secs. 856(c)(8), 857(b)(6)(G), and 857(b)(6)(H))

Treatment of certain dividends and assets of regulated investment companies ("RICs") (secs. 871(k)(1)(C) and (2)(C), and 881(e)(1)(A) and (2))

RIC qualified investment entity treatment under FIRPTA (sec. 897(h)(4))

Exceptions under subpart F for active financing income (secs. 953(e)(10) and 954(h)(9))

Look-through treatment of payments between related controlled foreign corporations under the foreign personal holding company rules (sec. 954(c)(6))

Basis step-up for property acquired from a decedent (sec. 1014 and sec. 901 of Pub. L. No. 107-16)

Basis adjustment to stock of S corporations making charitable contributions of property (sec. 1367(a))

Designation of an empowerment zone and of additional empowerment zones (secs. 1391(d)(1)(A)(i) and (h)(2))

Increased exclusion of gain (attributable to periods before 1/1/15) on the sale of qualified business stock of an empowerment zone business (secs. 1202(a)(2) and 1391(d)(1)(A)(i))

Empowerment zone tax-exempt bonds (secs. 1394 and 1391(d)(1)(A)(i))

Empowerment zone employment credit (secs. 1396 and 1391(d)(1)(A)(i))

Increased expensing under sec. 179 (secs. 1397A and 1391(d)(1)(A)(i))

Nonrecognition of gain on rollover of empowerment zone investments (secs. 1397B and 1391(d)(1)(A)(i))

Designation of DC Zone, employment tax credit, and additional expensing (sec. 1400(f)(1))

DC Zone tax-exempt bonds (sec. 1400A(b))

Acquisition date for eligibility for zero percent capital gains rate for investment in DC for gains through 12/31/14

(secs. 1400B(b)(2)(A)(i), (b)(3)(A), (b)(4)(A)(i), (b)(4)(B)(i)(I), (e)(2), and (g)(2))

Tax credit for first-time DC homebuyers

(sec. 1400C(i))

Designation of renewal community

(secs. 1400E(b)(1)(A) and (b)(3))

Acquisition date for eligibility for zero percent capital gains rate for investment in renewal communities for gains through 12/31/14

(secs. 1400F(b)(2)(A)(i), (3)(A), and (4)(A)(i) and (4)(B)(i), 1400F(c)(2), 1400F(d))

Employment credit (community renewal)

(secs. 1400H and 1391(d)(1)(A)(i))

Commercial revitalization deduction

(secs. 1400I(d)(2) and 1400I(g))

Increased expensing under sec. 179 (community renewal)

(sec. 1400J(b)(1)(A))

Definition of gross estate for RIC stock owned by a nonresident not a citizen of the United States

(sec. 2105(d))

Estate and generation-skipping transfer taxes

(secs. 2210 and 2664)

Excise tax credits and outlay payments for alternative fuel

(secs. 6426(d)(5) and 6427(e)(6)(C))

Excise tax credits and outlay payments for alternative fuel mixtures

(secs. 6426(e)(3) and 6427(e)(6)(C))

Reduced estimated tax payments for small businesses

(sec. 6654(d)(1)(D))

Temporary increase in limit on cover over of rum excise tax revenues (from \$10.50 to \$13.25 per proof gallon) to Puerto Rico and the Virgin Islands

(sec. 7652(f))

American Samoa economic development credit

(sec. 119 of Pub. L. No. 109-432)

Use of single-employer defined benefit plan's prior-year adjusted funding target attainment percentage to determine application of limitation on benefit accruals

(sec. 203 of Pub. L. No. 110-458)

Delay of designation of multiemployer plans as in endangered or critical status  
(sec. 204 of Pub. L. No. 110-458)

Extension of funding improvement and rehabilitation periods for certain multiemployer pension plans  
(sec. 205 of Pub. L. No. 110-458)

Refundable credit for government retirees  
(sec. 2202 of Pub. L. No. 111-5)

**10) Q: Do you have a chart showing how the various scenarios (tax cuts expiring, tax cuts extended, and Obama's proposal) would affect key tax parameters like tax rates and brackets, the standard deduction, etc.?**

**A:**

<b>Outline of Major Tax Law Provisions in 2011 under Multiple Scenarios</b>			
<b>Tax Parameter</b>	<b>Pre-Bush Tax Policy (a)</b>	<b>Bush Tax Policy (b)</b>	<b>Tax Policy Under Pres. Obama's Proposed Budget (c)</b>
Ordinary Taxable Income Rates	15%, 28%, 31%, 36%, 39.6%	10%, 15%, 25%, 28%, 33%, 35%	10%, 15%, 25%, 28%, 36%, 39.6%
Ordinary Taxable Income Brackets	<a href="#">Click here for a more detailed breakdown of tax brackets.</a>		
Standard Deduction	\$5,800 (single); \$9,700 (married filing jointly)	\$5,800 (single); \$11,600 (married filing jointly)	\$5,800 (single); \$11,600 (married filing jointly)
Long-Term Capital Gains Rate	10% (for 15% bracket); 20% rate (for other brackets)	5% rate (for 10/15% brackets); 15% rate (for other brackets)	5% (for 10/15% bracket); 20% rate (for other brackets)
Qualified Dividends Rate	Taxed as Ordinary Income	5% rate (for 10/15% brackets); 15% rate (for other brackets)	5% (for 10/15% bracket); 20% rate (for other brackets)
Personal Exemption Phase-out Threshold	\$170,150 (single); \$255,250 (MFJ)	No Phase-out	\$203,650 (single); \$254,550 (MFJ)

Itemized Deduction Phase-out Threshold	\$170,150 (single and MFJ)	No Phase-out	\$203,650 (single); \$254,550 (MFJ)
Further Limit on Itemized Deductions	None	None	Max tax value limited to benefit received in the 28% income tax bracket
Child Tax Credit (per child)	\$500	\$1,000	\$1,000
Refundable Child Tax Credit	Refundable only for families with 3 or more children, with restrictive income requirements	Refundable to the extent of 15% of AGI in excess of \$12,800	Refundable to the extent of 15% of AGI in excess of \$3,000
Making Work Pay Credit	None	None	Maximum of \$400 per wage earner; begins to phase out for those with income over \$75,000 (\$150,000 for joint filers)
AMT Exemption Level	\$33,750 (single); \$45,000 (married filing jointly) <b>Assumes no patch</b>	\$33,750 (single); \$45,000 (married filing jointly) (d) <b>Assumes no patch</b>	\$47,500 (single); \$72,200 (married filing jointly)* <b>Obama's "patch"</b>
EITC	<a href="#">Click here to see how EITC rules would be affected by these three tax policy scenarios</a>		
Estate Tax Exemption	\$1 million	N/A	\$3.5 million
Estate Tax Rate	55%	N/A	45%

(a) This scenario represents what tax law would be in 2011 if all the Bush tax cuts were to expire as scheduled at the end of 2010 and none of Obama's policies were implemented.

(b) This scenario represents what tax law would be if Bush-era tax policy, most of which expires at the end of 2010, was extended into 2011.

(c) This scenario represents President Obama's proposed tax policy in 2011. It includes extension of those Bush-era tax cuts that benefit lower-income taxpayers and expiration of those that benefit higher-income taxpayers. It also includes some new policies proposed by the Obama administration.

(d) Increased AMT exemption levels, historically passed by Congress on a year-by-year basis as part of the so-called "AMT patch", have not yet been set for tax year 2010. The default exemption levels are those shown.

\* There is some uncertainty regarding the exact parameters that would be set under Obama's proposed tax policies. Note: Tax parameters that are indexed for inflation have been adjusted to reflect Tax Foundation's inflation projection for 2011.

**11) Q: [What exactly is going on with the federal estate tax right now?](#)**

**A:** The answer to this question can be found in the Tax Foundation Special Report “The Federal Estate Tax: Will It Rise From the Grave in 2011 or Sooner?” From the report:

The scheduled but nevertheless unexpected repeal of the federal estate tax in 2010 and the prospect of its reinstatement in 2011 bring debate over the estate tax, or "death tax," to the fore again.

Some of the arguments are new: Would it be constitutional for Congress to reinstate the estate tax retroactively for 2010? But some of the arguments are a century old or more: Does the estate tax accomplish any worthwhile social purpose? Is it a good way to raise revenue?

The Economic Growth and Tax Relief Reconciliation Act (EGTRRA) of 2001, also known as the Bush tax cut of 2001, began phasing out the estate tax. The rate dropped from 55% in 2001 to 45% in 2009 to full repeal in 2010; meanwhile, the exemption level rose steadily as well, from \$1 million to \$3.5 million. The repeal is only scheduled to be in effect for one year, 2010, after which the estate tax is scheduled to revert to 2001 law. President Obama has proposed making 2009 law permanent, and most tax analysts believe that is the most likely legislative outcome.

On the pro-repeal side, the one-year repeal in 2010 is seen as a great improvement in tax policy that should be made permanent because the tax is unfair, preposterously complex and far more economically damaging per dollar of tax collected than any other individual tax. Many opponents of repeal consider any tax on the nation's wealthiest people, dead or alive, as the best sort of tax. They never liked EGTRRA or President Bush's subsequent tax cuts as a package, and they particularly disliked the repeal of estate taxation.

Read the full report at [www.taxfoundation.org/files/sr179.pdf](http://www.taxfoundation.org/files/sr179.pdf).

**12) Q: [How does the recently passed health care bill interact with all this?](#)**

**A:** The recently passed health care reform bill is not significantly related to the expiration of the Bush tax cuts. The tax provisions in the health care reform bill are mostly outside the individual income tax with the exception of the provision to scale back the use of the itemized deduction for medical expenditures (from a threshold of 7.5 percent of AGI to 10 percent of AGI). That provision of the health care bill directly interacts with provisions in the Bush tax cuts: the increasing of tax rates and the PEP/Pease provisions, as well as with President Obama's proposed additional limitation on itemized deductions.

Other provisions of the health care bill will interact with the Bush tax cuts in an indirect manner. For example, the new Medicare tax increases in the health care bill on high-income taxpayers will shrink the tax base somewhat, which will affect the revenue that would be raised from the expiration of the Bush tax cuts.

**13) Q: Can you give me some examples of how families' income tax bills would change as a result of the tax cuts expiring?**

**A:** Polls show that many Americans are anxious about their taxes and believe their payments are rising. At first glance this seems like a public misperception because tax policy at the end of the Bush administration and the beginning of the Obama administration has been dominated by a blizzard of tax cuts, most narrowly targeted at a few taxpayers but some broadly benefiting low- and middle-income people. But paradoxically, the people are right to be worried about high taxes. With federal deficits growing and the U.S. debt mounting to alarming levels, Congress will soon need to cut spending or raise taxes to shore up the long-term fiscal outlook.

These serious long-term concerns about the fiscal health of the nation have implications in the near term. The end of 2010 is an obvious turning point for tax policy as the Bush-era cuts and Obama's new temporary making-work-pay credit are all expiring at the same time. The handling of these expiring tax provisions may be an indication of what tax policy will look like in the years to come.

The personal income tax has typically been Congress's vehicle of choice to raise or cut taxes. Here we calculate what some typical tax returns will look like for tax year 2011 under three scenarios:

- the tax policies that prevailed before President Bush was elected;
- all Bush-era tax policies extended to 2011 (with no Obama changes); and
- combined Bush and Obama policies, as outlined in the President's FY 2011 Budget.

The Bush-era personal income tax cuts that expire at the end of this year included reductions for high-, low- and middle-income earners. Some provisions helped just low-income people, some helped low- and middle-income, some middle- and high-income, and some just high-income people. Proceeding roughly up the income spectrum, then, they:

- made more married taxpayers eligible for the earned income tax credit (EITC);
- created the 10% income tax bracket;
- raised the standard deduction for couples to double the single amount;
- increased the child tax credit from \$500 to \$1,000 per child and made it refundable;
- raised the ceiling of the 15-percent bracket to double what it is for singles;
- lowered the 28-percent rate to 25 percent;
- lowered the 31-percent rate to 28 percent;
- lowered the 36-percent rate to 33 percent;
- lowered the 39.6-percent rate to 35 percent; and
- reduced and finally repealed the phase-out of itemized deductions and personal exemptions.

Generally speaking, President Obama has proposed extending or making permanent most of the Bush-era tax cuts, that is, all those that benefit families making less than \$250,000 (\$200,000 for a single filer). He proposes letting expire all those that benefit taxpayers over those thresholds. He has also proposed a few new tax policies:

- increasing the EITC for taxpayers with 3 or more children;
- further expanding eligibility limits for married taxpayers claiming the EITC;
- reducing the requirements for qualifying for the refundable portion of the child tax credit; and

- extending the new making-work-pay tax credit through 2011.

Below are tax calculations for a few sample taxpayers. Since it's not clear how Congress and the President will deal with the expiration of all the tax cuts, we calculate them in three ways. The first is what taxes would have been in 2011 if neither the Bush nor Obama tax cuts ever existed (what we call 'Pre-Bush' policy). This is essentially the tax law that was in effect when President Bush was elected and what tax law would be if all the Bush tax cuts were allowed to expire on schedule at the end of 2010. The second scenario is what taxes would be if all Bush-era tax policies were still in effect in 2011. Finally, we look at what taxes would be in 2011 under Obama's proposed tax policies.

Note that several important variables are not included in these calculations: The tax hikes enacted as part of health insurance reform do not apply to 2011, so they are not included here. Also excluded are some tax credits and deductions that a taxpayer may or may not qualify for, such as education tax credits. Here we are highlighting the more 'automatic' tax provisions built into the tax code that depend only on income and family structure. All income is assumed to be in the form of wages. A negative tax liability represents a tax refund, that is, a check from the federal government to the taxpayer. An AMT patch is assumed for all policy scenarios.

	Pre-Bush	Bush	Obama
Single Parent, One child, \$25,000	- \$928	- \$1,881	- \$2,281
Married couple, two earners, three children, \$45,000	\$1,020	- \$1,510	- \$3,183
Married couple, one earner, two children, \$50,000	\$2,825	\$688	- \$112*
Married couple, two earners, two children, \$85,000	\$7,235	\$5,383	\$4,583
Single, no children, \$60,000	\$8,236	\$7,484	\$7,084
Single, no children, \$150,000	\$29,962	\$26,996	\$26,996
Married couple, two earners, two children, \$150,000	\$22,776	\$19,268	\$18,468
Married couple, two earners, two children, \$300,000	\$64,181	\$61,292	\$65,287*
Married couple, two earners, no children, \$500,000	\$130,210	\$123,900	\$130,342
Married couple, two earners, no children, \$1,000,000	\$298,510	\$254,167	\$307,342

**Table 2****Summary: Effective Tax Rates (Taxes as a % of Income) of Typical Tax Returns**

	Pre-Bush	Bush	Obama
Single Parent, One child, \$25,000	- 3.7%	- 7.5%	- 9.1%
Married couple, two earners, three children, \$45,000	2.3%	- 3.4%	- 7.1%
Married couple, one earner, two children, \$50,000	5.7%	1.4%	- 0.002%*
Married couple, two earners, two children, \$85,000	8.5%	6.3%	5.4%
Single, no children, \$60,000	13.7%	12.5%	11.8%
Single, no children, \$150,000	20.0%	18.0%	18.0%
Married couple, two earners, two children, \$150,000	15.2%	12.8%	12.3%
Married couple, two earners, two children, \$300,000	21.4%	20.4%	21.8%*
Married couple, two earners, no children, \$500,000	26.0%	24.8%	26.1%
Married couple, two earners, no children, \$1,000,000	29.9%	25.4%	30.7%

**Table 3****Typical Tax Return: Single Parent, Low Income**

Filing Status	Head of Household			
Children	1			
Income	\$25,000			
		Pre-Bush	Bush	Obama
Standard deduction	-	\$8,550	\$8,550	\$8,550
Personal exemptions	-	\$7,400	\$7,400	\$7,400
Taxable income	=	\$9,050	\$9,050	\$9,050
Tax on taxable income		\$1,358	\$905	\$905
Child credit (non-refundable portion)	-	\$500	\$905	\$905
Earned income tax credit	-	\$1,786	\$1,786	\$1,786
Additional child tax credit	-	\$0	\$95	\$95
Making-work-pay tax credit	-	--	--	\$400
Tax liability	=	- \$928	- \$1,881	- \$2,281

**Table 4****Typical Tax Return: Family of 5, Two Earners, Low Income**

Filing Status	Joint			
Children	3			
Income	\$45,000			
		Pre-Bush	Bush	Obama
Standard deduction	-	\$9,700	\$11,600	\$11,600
Personal exemptions	-	\$18,500	\$18,500	\$18,500
Taxable income	=	\$16,800	\$14,900	\$14,900
Tax on taxable income		\$2,520	\$1,490	\$1,490
Child credit (non-refundable portion)	-	\$1,500	\$1,490	\$1,490
Earned income tax credit	-	\$0	\$0	\$873
Additional child tax credit	-	\$0	\$1,510	\$1,510
Making-work-pay tax credit	-	-	-	\$800
Tax liability	=	\$1,020	- \$1,510	- \$3,183

**Table 5****Typical Tax Return: Family of 4, One Earner, Low-Middle Income**

Filing Status	Joint			
Children	2			
Income	\$50,000			
		Pre-Bush	Bush	Obama
Standard deduction	-	\$9,700	\$11,600	\$11,600
Personal exemptions	-	\$14,800	\$14,800	\$14,800
Taxable income	=	\$25,500	\$23,600	\$23,600
Tax on taxable income		\$3,825	\$2,688	\$2,688
Child credit (non-refundable portion)	-	\$1,000	\$2,000	\$2,000
EITC	-	\$0	\$0	\$0
Additional child tax credit	-	\$0	\$0	\$0
Making-work-pay tax credit	-	--	--	\$800*
Tax liability	=	\$2,825	\$688	- \$112*

**Table 6****Typical Tax Return: Family of 4, Two Earners, Middle Income**

Filing Status	Joint			
Children	2			
Income	\$85,000			
		Pre-Bush	Bush	Obama
Standard deduction	-	\$15,300	\$15,300	\$15,300
Personal exemptions	-	\$14,800	\$14,800	\$14,800
Taxable income	=	\$54,900	\$54,900	\$54,900
Tax on taxable income		\$8,235	\$7,383	\$7,383
Child credit (non-refundable portion)	-	\$1,000	\$2,000	\$2,000
Earned income tax credit	-	\$0	\$0	\$0
Additional child tax credit	-	\$0	\$0	\$0
Making-work-pay tax credit	-	--	--	\$800
Tax liability	=	\$7,235	\$5,383	\$4,583

**Table 7****Typical Tax Return: Single Individual, Above-Average Income**

Filing Status	Single			
Children	0			
Income	\$60,000			
		Pre-Bush	Bush	Obama
Itemized deductions (a)	-	\$10,800	\$10,800	\$10,800
Personal exemptions	-	\$3,700	\$3,700	\$3,700
Taxable income	=	\$45,500	\$45,500	\$45,500
Tax on taxable income		\$8,236	\$7,484	\$7,484
Making-work-pay tax credit	-	-	-	\$400
Tax liability	=	\$8,236	\$7,484	\$7,084

**Table 8****Typical Tax Return: Single Individual, High Income**

Filing Status	Single			
Children	0			
Income	\$150,000			
		Pre-Bush	Bush	Obama
Itemized deductions (a)	-	\$27,000	\$27,000	\$27,000
Personal exemptions	-	\$3,700	\$3,700	\$3,700
Taxable income	=	\$119,300	\$119,300	\$119,300
Tax on taxable income		\$29,962	\$26,996	\$26,996
Making-work-pay tax credit	-	-	-	\$0
Tax liability	=	\$29,962	\$26,996	\$26,996

**Table 9****Typical Tax Return: Family of 4, Two Earners, Upper-Middle Income**

Filing Status	Joint			
Children	2			
Income	\$150,000			
		Pre-Bush	Bush	Obama
Itemized deductions (a)	-	\$27,000	\$27,000	\$27,000
Personal exemptions	-	\$14,800	\$14,800	\$14,800
Taxable income	=	\$108,200	\$108,200	\$108,200
Tax on taxable income		\$22,776	\$19,268	\$19,268
Alternative minimum tax	+	\$0	\$0	\$0
Child credit (non-refundable portion)	-	\$0	\$0	\$0
Making-work-pay tax credit	-	\$0	\$0	\$800
Tax liability	=	\$22,776	\$19,268	\$18,468

**Table 10****Typical Tax Return: Family of Four, High Income**

Filing Status	Joint			
Children	2			
Income	\$300,000			
		Pre-Bush	Bush	Obama
Itemized deductions (a)	-	\$50,105	\$54,000	\$52,637
Personal exemptions (b)	-	\$9,472	\$14,800	\$9,176
Taxable income	=	\$240,424	\$231,200	\$238,188
Tax on taxable income (c)		\$64,181	\$53,663	\$59,136
Alternative minimum tax	+	\$0	\$7,629	\$6,151*
Making-work-pay tax credit	-	\$0	\$0	\$0
Tax liability	=	\$64,181	\$61,292	\$65,287*

**Table 11****Typical Tax Return: Married Couple, Two Earners, High Income**

Filing Status	Joint			
Children	0			
Income	\$500,000			
		Pre-Bush	Bush	Obama
Itemized deductions (a)	-	\$80,104	\$90,000	82,636
Personal exemptions (b)	-	\$0	\$7,400	\$0
Taxable income	=	\$419,895	\$402,600	417,363
Tax on taxable income (c)		\$130,210	\$110,667	130,342
Alternative minimum tax	+	\$0	\$13,233	\$0
Making-work-pay tax credit	-	\$0	\$0	\$0
Tax liability	=	\$130,210	\$123,900	\$130,342

**Table 12****Typical Tax Return: Married Couple, Two Earners, Very High Income**

Filing Status	Joint			
Children	0			
Income	\$1,000,000			
		Pre-Bush	Bush	Obama
Itemized deductions (a)	-	\$155,105	\$180,000	\$157,637
Personal exemptions (b)	-	\$0	\$7,400	\$0
Taxable income	=	\$844,896	\$812,600	\$842,364
Tax on taxable income (c)		\$298,510	\$254,167	\$307,342
Alternative minimum tax	+	\$0	\$0	\$0
Tax liability	=	\$298,510	\$254,167	\$307,342

**Notes**

**(a)** Taxpayers are assumed to have itemized deductions worth 18% of income. Itemized deductions are claimed when this amount is greater than the standard deduction. Itemized deductions are split evenly between the deduction for state and local taxes and the mortgage interest deduction. The phase-out of itemized deductions for high-income filers, the so-called "Pease" provision, is in full effect under Pre-Bush law and under Obama's proposed budget, although Obama increases the income thresholds where Pease begins to take effect. As part of the 2001/2003 tax cuts, President Bush temporarily eliminated the Pease provision, allowing high-income taxpayers to deduct the full value of their itemized deductions. The amounts listed for itemized deductions represent itemized deductions after any applicable limitation under Pease.

**(b)** The personal exemption phase-out (PEP) for high-income filers is in full effect under Pre-Bush law and under Obama's proposed budget, although Obama changes the income thresholds where PEP begins to take effect. President Bush temporarily eliminated the PEP provision, allowing high-income taxpayers to deduct the full value of their personal exemptions.

**(c)** Includes Obama's proposal to limit the value of all itemized deductions by limiting the tax value of those deduction to 28% whenever they would otherwise reduce taxable income in the 36% or 39.6% tax brackets.

\* Corrected on 7/20/2010

**14.Q:** [How can I figure out how much my own tax bill would change as a result of the Bush tax cuts expiring?](#)

**A:** Go to [www.mytaxburden.org](http://www.mytaxburden.org) to calculate your new tax burden.