Tax Breaks Not Extended by the 2010 Tax Relief Act Probably are Gone for Good

By passing the 2010 Tax Relief Act, the outgoing Congress gave a new lease on life to many tax breaks which would have disappeared after either 2009 or 2010. However, it left many tax provisions on the cutting room floor, with only a remote possibility the incoming Congress will resuscitate them.

The following is a roundup of **key provisions** which were **not extended** by the 2010 Tax Relief Act and either expired for good at the end of 2009, or will expire at the end of 2010:

- ***Deferral and ratable inclusion for certain debt discharge income.***

  At the taxpayer's election, debt discharge income from the reacquisition of a discounted applicable debt instrument by the taxpayer or a related party after 2008 and before 2011 may be deferred for up to five years, and then included in income ratably over five years.

- ***Exclusion for volunteer emergency medical responders.***

  For tax years beginning before 2011, qualified State or local tax benefits (e.g., deduction or rebate of State or local income) and any qualified payment (provided by a State or political subdivision on account of the performance of services as a member of a qualified volunteer emergency response organization) is excluded from the gross income of members of qualified volunteer emergency response organizations. These amounts also aren't subject to social security or unemployment tax, or withholding.

- ***Qualified motor vehicle taxes.***

  For purchases on or after February 17, 2009, and before January 1, 2010, an itemized deduction was allowed for qualified motor vehicle taxes. The deduction also was available to those claiming the standard deduction.

- ***Real property tax deduction for nonitemizers*.**

  For tax years beginning in 2008 or 2009, taxpayers could take an additional standard deduction amount for state and local real property taxes, up to a maximum of $500 ($1,000 for marrieds filing jointly).

- ***Partial exclusion for unemployment benefits.***

  An up-to-$2,400 exclusion for unemployment compensation benefits applied only for 2009.

- ***Specialized state and local bond provisions.***

  None of these provisions was extended by the 2010 Tax Relief Act:

  - State and local governments, at their option, may issue Build America Bonds (BABs) as taxable governmental bonds with Federal subsidies for a portion of their borrowing costs. These bonds must be issued before January 1, 2011.

  - Two types of "Recovery Zone Bonds" may be issued, including a type of BABs known as "Recovery Zone Economic Development Bonds" and a type of traditional tax-exempt bonds known as "Recovery Zone Facility Bonds." These bonds also must be issued before January 1, 2011.

  - Certain sections of the Internal Revenue Code provide respectively that tax-exempt interest on private activity bonds issued after December 31, 2008, and before January 1, 2011, isn't an item of tax preference for purposes of the Alternative Minimum Tax (AMT) and isn't included in the corporate Adjusted Current Earnings (ACE) adjustment.

- ***Specialized catchup contributions.***

  For tax years beginning after December 31, 2009, an individual may no longer deduct catch-up contributions of up to $3,000 each year to his IRA if he participated in a 401(k) plan of an employer (or controlling corporation) which was a debtor in bankruptcy proceedings and an indictment or conviction resulted from transactions related to the bankruptcy.

- ***Alternative motor vehicle credit.***

  These elements of the alternative motor vehicle credit won't be available for post-2010 purchases: the advance lean burn technology motor vehicle credit, the new qualified hybrid motor vehicle credit, and the new qualified alternative fuel motor vehicle credit.

- ***Disaster loss related tax rules for individuals.***

  The following provisions were not extended by the 2010 Tax Relief Act:

  - The additional standard deduction for federally declared disaster losses occurring before January 1, 2010.

  - The waiver of the 10%-of-AGI limit, which applied for net disaster losses due to federally declared disasters occurring before January 1, 2010.

  - The ability to claim additional personal exemptions for housing Midwestern disaster area displaced persons applied only for 2008 and 2009.

- ***Disaster loss related tax rules for businesses.***

  The following business relief provisions applied for federally disasters declared after

2007 and before 2010:

- Expensing of qualified disaster expenses (e.g., abatement of hazardous substances released as a result of a federally declared disaster).

  Note, however, that the 2010 Tax Relief Act did extend the election to expense qualified environmental remediation expenditures to include expenses paid or incurred before January 1, 2012.

- Five-year carryback of net operating losses attributable to federally declared disasters.

- Boosted expensing under Code Sec. 179(e)(1) for qualified disaster assistance property .

- Bonus first-year depreciation for qualified disaster assistance property.

  Oservation: Although disaster-related expensing and bonus first year depreciation are gone, all taxpayers can avail themselves of generous expensing and bonus depreciation provisions under the Small Business Jobs Act of 2010.