

2010 Upcoming Tax Law Changes

by Jay Peroni on June 21, 2010

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2010 – A Tax Dilemma?

Who would have thought the already complicated tax laws could become more complex? Yet, in 2010, this is shaping up to be one of the most bizarre years on record for uncertainty with game-changing potential (good and bad).

Currently we have an series of unresolved tax issues, let's look at how the rest of 2010 and beyond is shaping up:

First there are the set of Bush tax benefits set to expire in 2010 with the sunset provisions and secondly there could be a set of 2009 tax breaks that may be extended for 2010 if H.R. 4213 becomes law (American Jobs and Closing Tax Loopholes Act).



Now that 2010 is just about half way over, let's take a look at ten tax law changes that could impact you:

1. The estate tax and generation skipping transfer tax have been repealed for 2010.

So for now, the estate tax is 0% in 2010. This is unless Congress takes action before year-end. What this means for 2011, however, is that the estate tax and the generation-skipping transfer tax (GSTT) are scheduled to return. A talk with estate planners reveals a common consensus thinking that Congress will restore

estate laws back to 2009 levels. This would allow a \$3.5 million exemption for estate tax and GSTT with a 45% estate, GSTT, and gift tax rate. If, on the other hand, we go back to pre-Bush Tax Law Changes, the exemption level would be only \$1 million with a 55% estate, GSTT, and gift tax rate.

2. With no estate tax in place for 2010, this means the step-up basis rules have been replaced by carryover basis rules.

In 2010, any assets within an estate are subjected to capital gains taxes rather than getting a step up as of the date of death. So if assets were bought over a period of time (say 20 years), you'll have to go back and find a paper trail to determine your cost basis. As a result, you may end up paying capital gains tax on the appreciation if the estate is really large. Keep in mind, each estate can exempt \$1.3 million of gains from the carryover basis rule, and another \$3 million exemption applies to assets inherited from a spouse – so as much as \$4.3 million of an estate can retain the step-up in 2010.

3. The federal gift tax rate changes to 35% for 2010 from 45%.

There is still a gift tax in 2010 on gifts above the lifetime exemption amount of \$1 million. The tax liability is set for 35% for 2010. However, if you end up gifting less than \$1 million during your lifetime, you won't have to worry about the gift tax at all.

4. No income limits on Roth IRA conversions.

This is one of the major benefits in 2010 – anyone can [convert a traditional IRA to a Roth IRA](#) and they have the option of paying the taxes resulting from the conversion over two tax years – 2011 and 2012. Keep in mind though, there are still income limits preventing certain taxpayers from actively contributing to [a Roth IRA](#), but there is no rule stopping you from making an IRA contribution in 2010 and then subsequently converting that to a Roth.

5. You can no longer opt to deduct state and local sales taxes on your federal return (for the moment).

Prior to 2010, you could choose to deduct state sales tax payments instead of state and local income taxes. Congress let this option expire at the start of this year. However, Sen. Maria Cantwell (D-WA) has been spearheading a provision to extend the state and local sales tax deduction – so we have a chance that this option may return for tax year 2010.

6. Alternative Minimum Tax (AMT) exemption amounts have significantly decreased.

Last year's levels were adjusted for the economic stimulus arranged by the Obama administration. Currently, AMT amounts are set as follows for tax year 2010:

- **Single/Head of Household: \$33,750**
- **Married Filing Separately: \$22,500**
- **Married Filing Jointly: \$45,000**

7. Business mileage deduction rates have been decreased.

If you use a personal vehicle for business purpose, be aware that the business mileage deduction is now 50¢ a mile in 2010 (9 percent lower than the 55¢ per mile figure from 2009).

8. The favorable charitable option that allowed you to donate money from your IRA tax free has expired as of December 31, 2009.

This may come back if Congress restores this option. It gave IRA owners a big incentive (tax avoidance) to give money to charities that desperately need funding. This may come back with HR4213.

9. No more excluding unemployment benefits from your taxable income.

In 2009, you could exclude up to \$2,400 of unemployment benefits. In 2010, there are no tax breaks for unemployment benefits.

10. No higher education tuition deduction for 2010.

In 2009, some qualifying taxpayers could take an above-the-line deduction for college tuition and expenses. If your AGI was \$65,000 or less (\$130,000 for joint filers), the limit of the deduction was \$4,000. Taxpayers with AGI up to \$80,000 (\$160,000 for joint filers) could take a reduced deduction of as much as \$2,000. But not in 2010 ...not so far, anyway.

2010 has been a very strange year for the U.S. tax code!

As you can see we still have huge tax issues with wide implications. If the Bush Tax Benefits are allowed to resort back to 2001, taxes will most likely go up for almost every American in one form or another. If HR4213 is passed in its current form, it may provide some additional incentives and benefits. Either way, this is certainly shaping up to be anything but a normal tax year!