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late-breaking tax news

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AMT, Extenders Tax Relief Clears Congress Before Recess

By *Bart Massey*

Before recessing for the election, Congress passed, and the President signed into law, the Emergency Economic Stabilization Act of 2008 (P.L. 110-343), providing both alternative minimum tax (AMT) relief to individual taxpayers and an extension of a wide range of individual tax provisions that had either expired at the end of 2007 or were scheduled to expire at the end of 2008.

AMT Relief

Following its pattern in recent years, Congress acted to halt the growth of the individual AMT by passing a so-called patch that provides an annual increase for AMT exemptions. The Act increases the AMT exemption amounts for 2008 to \$69,950 for joint filers and \$46,200 for unmarried individuals from \$45,000 and \$33,750 respectively. Without the change, the number of AMT taxpayers would have increased

Guidance Aimed at Preventing Loss of Reservist Health FSA Funds

Employers with workers who are in the National Guard or Reserves now have the ability to ensure that those workers do not lose funds in their health flexible spending arrangements (health FSAs) when called to active duty.

Enacted this summer, the Heroes Earnings Assistance and Relief Tax Act of 2008 includes a provision allowing reservists called to active duty to make "qualified reservist distributions" (QRDs) of unused health FSA amounts—but only for reimbursements for substantial medical expenses, according to the IRS.

More recently, the IRS issued Notice 2008-82, which gives employers the option of allowing reservists to make distributions

before leaving for active duty. This provision prevents them from losing funds otherwise left unspent at the end of the plan year.

In the notice (expected to be published in IRB 2008-41, Oct. 13, 2008), the IRS specifies that employers must amend their health FSAs if they intend to allow QRDs, and that a transition period allows plans to be amended effective retroactively to provide for QRDs prior to January 1, 2010.

In addition, the guidance states that QRDs are includible in income and wages and that eligible employees may request such a distribution after receiving an order or call to active duty and before the last day of the plan year (and grace period, if applicable). ■

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by 20 million, according to government estimates. Because of the patch, the number for AMT taxpayers for 2008 is expected to remain around four million.

Along with the patch, the Act guarantees that taxpayers can use the full range of nonrefundable personal credits against AMT liabilities. At the end of 2007, the opportunity to use certain of these credits, such as the dependent care credit, had lapsed. The law preserves this opportunity through the end of 2008.

The Act also modifies rules for the long-term minimum tax credit enacted by the Tax Relief and Health Care Act of 2006 (P.L. 109-432).

Specifically, the legislation accelerates refunds of minimum tax by allowing 50 percent of the long-term unused minimum tax credit to be refunded over each of two years instead of 20 percent over each of five years, and it eliminates the credit phaseout based on adjusted gross income.

The change gives relief particularly to taxpayers who may have suffered onerous AMT liabilities as a result of incentive stock option situations, in which the stock later dropped in value. However, the relief is available to all taxpayers in similar AMT positions.

The Act also abates any underpayment of tax, interest and penalties outstanding on the date of enactment that originate from exercising incentive stock options (ISOs) and related AMT liabilities. No tax that is abated is taken into account for determining the minimum tax credit.

For these same ISO taxpayers, the legislation increases the AMT refundable credit amount and the AMT credit for the first two tax years beginning after 2007 by 50 percent of interest and penalties paid before the date of enactment. The opportunity to abate taxes, interest and penalties is effective on the date of enactment (October 3, 2008).

Tax Extenders

Also included in the Act is a package of tax extenders that will renew already expired—or extend what were soon-to-be expired—provisions through 2009, including the following:

- Itemized deduction for state and local sales tax
- Above-the-line deduction for qualified tuition expenses
- Tax-free distributions from IRAs for charitable purposes
- Above-the-line deduction for certain expenses of elementary and secondary school teachers
- Standard deduction for real property taxes

The Act also extended numerous business provisions—significantly, the research and development credit through 2009.

Nonqualified Deferred Compensation

To partly offset the cost of the extenders, Congress enacted changes to taxing deferred compensation received from “tax indifferent parties” (e.g., offshore entities). In this case, service providers, notably hedge fund managers, working for these entities will no longer be able to defer U.S. tax on compensation for more than 12 months after the end of the entity's year in which the services required to vest in the compensation are complete (without regard to whether there are additional performance conditions still in effect). Nonqualified deferred compensation is defined in the same manner as under current Internal Revenue Code Section 409A, except that it is expanded to include stock options and other equity appreciation rights. The Act is generally effective for amounts deferred that are attributable to services performed after December 31, 2008, although transition rules apply for services performed before that date.

Next Year

While the Act will provide certainty of the extenders through the end of next year, Congress again will have to address the AMT issue during 2009 to decide if it will continue its tradition of providing patches or if it will move to something more permanent in restructuring the dual tax.

Last year, Ways and Means Chairman Charles Rangel, D-N.Y., sponsored legislation to repeal the

AMT, and many Republicans and Democrats favor repeal. But the new president-elect has recommended merely extending the 2007 patch, while indexing it for inflation. If an increase in ordinary income tax rates were to be enacted, that change would likely help curb some of the pressures for growth in the AMT system.

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TAX LEGISLATION

"Rescue" Bill Packed with Tax Provisions

The initial goal of the Emergency Economic Stabilization Act of 2008 (P.L. 110-343) was to address the nation's financial crisis, but the 169-page version that passed the Senate and the House of Representatives—and was ultimately signed by President Bush—contains approximately 290 tax code changes, according to CCH, publisher of EXECUTIVE'S TAX & MANAGEMENT REPORT.

As outlined in the lead story of this issue, the legislation includes relief from the individual alternative minimum tax (AMT) for millions of Americans and the extension of various tax provisions that had already expired or would do so soon. The massive bill also includes tax relief provisions for natural disasters, renewable energy, businesses and charitable contributions.

"Dozens of these tax proposals had been languishing in Congress for months," said Mark Luscombe, J.D., LL.M., CPA, CCH principal federal tax analyst. "For some reason, when combined with a financial 'bailout' that had failed passage in the House, the total package became irresistible."

New Law Prevents Tax Hikes for Millions

"This legislation was a no-brainer," said Sen. Chuck Grassley (R-Iowa), ranking member of the

Senate's Committee on Finance who helped write the legislation. Without approval of the so-called AMT patch included in the new law, millions of families would have faced an average tax increase of at least \$2,000 this year, according to Grassley.

In addition, "we're extending tax benefits for middle-income taxpayers, including deductions for out-of-pocket expenses for teachers, sales tax and college tuition. Millions of taxpaying families would have faced an unexpected tax increase without

Revenue Offsets for "Rescue" Plan Listed

The government's financial rescue plan includes several revenue offsets, including changes to taxing deferred compensation received from "tax indifferent parties," such as offshore entities (see page 1 story, *AMT, Extenders Tax Relief Clears Congress Before Recess*, in this issue of EXECUTIVE'S TAX & MANAGEMENT REPORT).

In addition, the following revenue provisions are included in the recently enacted legislation:

- Although the Code Sec. 199 deduction was scheduled to increase to nine percent in 2010, it will remain at six percent for gross receipts derived from the sale, exchange or other disposition of oil, natural gas or any primary product thereof.
- Mandatory basis reporting measures to the IRS by

brokers for transactions involving publicly traded securities (e.g., stock, debt, commodities, derivatives and other specified items) also is included in the new law.

- The temporary FUTA surtax of 0.2 percent is extended through 2009.
- Code Sec. 907 has been modified to eliminate the distinction between foreign oil and gas extraction income (FOGEI) and foreign oil related income (FORI) and to apply the FOGEI limitation to both.
- Changes were made related to the Oil Spill Liability Trust Fund, extending the oil spill tax through December 31, 2017, and increasing the per barrel tax to eight cents through 2016 and to nine cents in 2017. ■

our action,” he said. “Businesses need continued job-creating incentives, like the research and development tax credit. Congress is sending a clear signal in support of alternative energy and conservation. And the Midwest needs help with disaster recovery—the sooner, the better.”

“There are really only two good things to say about the passage of this legislation,” said Sen. Max Baucus (D-Montana), chairman of the Senate’s finance committee. “First, that Congress has at least done its job in taking action to keep the current financial crisis from hitting folks at home even harder, and second,

that we insisted on improvements to protect and provide tax relief to America’s working families in this time of economic hurt. It is still outrageous that Wall Street greed was allowed to run rampant and force the need for this rescue plan in the first place.”

Baucus said Congress “must work constantly to oversee the implementation of the Treasury plan, to track, protect and recoup every taxpayer dollar that runs through it.”

Grassley’s office provided a comprehensive summary of the tax relief provisions contained in the new law. Following are some highlights.

Disaster Relief Provisions Outlined

The new law includes more than \$8 billion in disaster tax relief to help 10 Midwestern states hit by the spring 2008 floods and tornadoes, residents and businesses in Texas and Louisiana impacted by Hurricane Ike, and other victims of natural disasters nationwide. The Midwest disaster relief provisions are modeled after tax provisions provided to Hurricane Katrina victims three years ago.

“None of these provisions is strikingly new, and all were probably destined to pass sooner or later,” Luscombe said. “But the financial crisis provided an opportunity for bundling many tax provisions together and ensuring passage of the entire lot.”

Among other things, Grassley said the new law does the following:

- Allows disaster victims whose primary residence was damaged to tap their assets and access cash by withdrawing money from retirement plans without tax penalties
- Suspends limits on tax incentives for charitable contributions
- Creates tax credit bond authority to help local governments rebuild infrastructure
- Increases the amount of tax-exempt bond authority to help businesses receive below-market interest rate financing
- Removes limitations on deducting casualty losses due to natural disaster
- Increases deductions for the depreciation and expensing of certain business property

Numerous Business Extenders Included

More than two dozen tax relief provisions for businesses were extended under the new law—ranging from \$19 billion in tax relief for the research and development credit to a revenue-neutral

Legislation Imposes Limits on Executive Compensation

Financial institutions that participate in the government’s Troubled Asset Relief Program (TARP) must abide by certain limits on executive compensation, under the Emergency Economic Stabilization Act of 2008 (P.L. 110-343).

Direct purchases. Institutions whose troubled assets are purchased directly by the government are subject to certain restrictions for senior executive officers, defined under the law as “the top 5 highly paid executives of a public company, whose compensation is required to be disclosed pursuant to the Securities Exchange Act of 1934, and any regulations issued thereunder, and non-public company counterparts.”

The law imposes “limits on compensation that exclude incentives for senior executive officers of a financial institution to take unnecessary and excessive risks that threaten the value of the financial institution” during its participation in the program.

A “clawback” provision is also included, allowing the financial institution to recover “any bonus or incentive compensation paid to a senior executive officer based on statements of earnings, gains or other criteria that are later proven to be materially inaccurate,” the law states.

In addition, participating institutions are prohibited from making so-called golden parachute payments to their senior executive officer.

Auction purchases. Certain executive compensation restrictions also apply to an institution whose troubled assets are purchased through auction—but only in cases where at least \$300 million in assets is purchased (including direct purchases). Specifically, such an institution will be prohibited from entering into “any new employment contract with a senior executive officer that provides a golden parachute in the event of an involuntary termination, bankruptcy filing, insolvency, or receivership,” the law states. ■

election to expense advanced mine safety equipment. Here is an overview of the business extenders:

- **Research and development credit.** This credit, which had expired December 31, 2007, will continue through 2009. It “is equal to 20 percent of the amount by which a taxpayer’s qualified research expenses for a taxable year exceed its base amount for that year,” Grassley’s office explained. Under the new law, the alternative simplified credit will increase from 12 percent to 14 percent for the 2009 tax year, and the alternative incremental research credit for the 2009 tax year will be repealed. This provision applies to amounts paid or incurred after December 31, 2007.
- **New markets tax credit.** Taxpayers who hold a qualified equity investment on a credit allowance date will continue to receive a credit through 2009.
- **Exception under Subpart F for active financing income.** By extending this provision through 2009, the new law allows the U.S. parent of a foreign subsidiary engaged in a banking, financing or similar business to defer tax on the subsidiary’s earnings in cases where the subsidiary is predominantly engaged in—and conducts substantial activity with respect to—such business.
- **Look-through treatment of payments between related CFCs.** Through 2009, U.S. taxpayers may continue to deploy capital from one commonly controlled foreign corporation (CFC) to another without triggering U.S. tax.
- **Basis adjustment to stock of an S Corporation making charitable contributions of property.** When an S corpora-

tion makes a contribution to a charity, shareholders can continue to reduce the basis in their stock by an amount equal to the shareholder’s *pro rata* share of the adjusted basis of the contributed property—rather than their *pro rata* share of the fair market value of the contribution. This provision, which expired December 31, 2007, is extended through 2009.

- **Mine rescue team training credit.** Previously scheduled for expiration at the end of 2008, this credit of up to \$10,000 for the training of mine

rescue team members will be available for an additional year.

- **Election to expense advanced mine safety equipment.** Through 2009, mining companies will be entitled to 50 percent immediate expensing for qualified underground mine safety equipment, which exceeds current safety equipment requirements.

Other business extenders in the new law include the following:

- Fifteen-year straight-line cost recovery for qualified

Provision Eliminates Potential Conflicts of Interest

The tax extenders package approved as part of the financial rescue plan includes a provision that generally equalizes the tax return reporting standards for taxpayers and tax preparers—a move applauded by the American Institute of Certified Public Accountants (AICPA).

“Equalizing the IRS reporting standards for taxpayers and tax preparers was the right thing to do, and Congress understood that and acted quickly,” said Barry C. Melancon, president and CEO of the AICPA (www.aicpa.org).

Under the Internal Revenue Code, taxpayers and tax preparers are subject to certain thresholds, or standards, that they must meet to avoid penalties when a tax return underreports taxes due, according to a statement from the AICPA.

Last year, the penalty threshold applying to tax preparers was raised to the “more likely than not” standard (*i.e.*, a reasonable belief that a tax return position has a greater than 50 percent chance of being accepted by the IRS or a court), but taxpayers were still subject to the “substan-

tial authority” threshold (*i.e.*, a tax position has about a 40-percent chance of being sustained).

“The differential in standards created a potential conflict of interest between tax preparers and their clients that could have chilled the professional advice CPAs might have given taxpayers,” Melancon said.

For example, if a taxpayer had “substantial authority” for a tax return position, but the tax preparer could not reasonably meet the “more likely than not” standard, a potential conflict of interest would have arisen, according to Tom Ochenschlager, AICPA vice president of taxation. That’s because the taxpayer would not have been required to disclose the position to avoid a penalty, however, the tax preparer would only have been protected from potential IRS penalties if the disclosure was made by the taxpayer.

The new law generally equalizes the undisclosed tax reporting standard for both taxpayers and tax preparers at the “substantial authority” threshold. ■

leasehold, restaurant and retail improvements

- Modification of tax treatment of certain payments to controlling exempt organizations
- Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico
- Qualified Zone Academy Bonds
- Tax credit for employers of qualified employees that work and live on or near an Indian reservation
- Accelerated depreciation for business property on an Indian reservation
- Extension and expansion of a 50-percent tax credit for certain expenditures for maintaining railroad tracks
- Seven-year recovery period for certain motorsports racetrack property
- Expensing of "Brownfields" environmental remediation costs
- Extension of the work opportunity tax credit for those employed within the Hurricane Katrina core disaster area
- Extension of the increased rehabilitation credit for structures in the Gulf Opportunity Zone
- Tax incentives for investments in the District of Columbia
- Enhanced charitable deductions for qualified contributions of computers, food inventory and book inventory
- Special expensing rules for certain film and television productions

Renewable Energy Incentives Extended

Under the new law, the 30-percent investment tax credit for solar energy property and qualified fuel cell property has been extended through 2016, along with the 10-percent investment tax credit for microturbines. In addition, a new 10-percent investment tax credit is available for combined heat and

power systems and geothermal heat pumps.

The credit for residential solar property has been extended to 2016, and the current \$2,000 cap for solar electric investments has been removed. Two new items were added to the list of qualified property for this credit: residential small wind investment (capped at \$4,000) and geothermal heat pumps (capped at \$2,000).

Among other things, the new law also provides for modification of the production tax credit and an extension of the credit through 2009 for wind and refined coal and through 2010 for other sources.

Transportation-Related Credits Highlighted

Individuals or businesses that purchase qualified plug-in electric drive vehicles will be eligible for a new credit ranging from \$2,500 to \$7,500. The full amount of the applicable credit may be claimed until the end of the first calendar quarter after the quarter in which the total number of qualified vehicles sold in the United States surpasses 250,000.

The law also addresses an expanded allowance for cellulosic biofuels property, as well as extensions of the biodiesel production, renewable diesel, alternative fuels and alternative refueling stations credits. Among other things, transportation-related provisions include:

- The ability for employers to provide their bicycle-commuting employees with limited fringe benefits to offset their commuting cost (*e.g.*, storage)
- An exemption from the heavy vehicle excise tax for the cost of idling reduction units at vehicle rest stops or other temporary parking locations
- An exemption for the installation of advanced insulation on transportation vehicles carrying refrigerated cargo

Energy Conservation Relief Provided

Eight items that address energy conservation are included in the new law, such as a new category of tax credit bonds that will finance state and local government initiatives to reduce greenhouse emissions, as well as extensions of credits for energy-efficiency improvements to existing homes (through 2009), for energy-efficient property installed in commercial buildings (through 2013) and energy-efficiency improvements to new homes (through 2009).

Other provisions in this category include modification and extension through 2010 of the energy-efficient appliance credit and accelerated depreciation for smart electric meters and grid systems.

Myriad of Other Tax Relief Provisions Included

The new law includes provisions addressing the following:

- New standards for imposition of a penalty against a tax return preparer
- An excise tax exemption for wooden practice arrows used by children
- A provision allowing more film and television show production companies to use the domestic production deduction
- A lower income threshold for taxpayers to qualify for an income tax refund (in cases where the amount of the taxpayer's child tax credit is greater than his or her income tax)
- A requirement that private insurance plans that provide mental health benefits offer mental health care that is equal to medical-surgical benefits
- Income averaging for Exxon Valdez litigation amounts
- A five-year recovery period for certain farming business machinery and equipment. ■

High Price to Pay for FBAR Noncompliance

By George Clarke

With the current spotlight on the long-term survivability of onshore banking, the 24-hour news cycle has appropriately shifted away from the allegations of tax non-compliance associated with offshore banking. [See, e.g., Permanent Subcommittee on Investigations, *Tax Haven Banks and Noncompliance Staff Report* (July 17, 2008); *In the Matter of the Tax Liabilities of John Does*, Docket No. 08-21864 (filed June 30, 2008).] However, buried in those allegations is a rule that even the most compliant of individuals and companies can easily foot-fault—a rule that involves the filing of a one-page report on foreign bank accounts; a rule that, if it is not met, can result in penalties that are greater than the amount of money in the account itself. Although historic enforcement of the so-called Foreign Bank and Financial Account reporting (FBAR) requirement has been lax enough that failure to meet its terms was practically irrelevant, all of that is changing; enforcement is up and compliance had better be, too.

Background Information

An FBAR is required to be filed if a U.S. person has a financial interest in, signature authority over, or other authority over a financial account located in a foreign country—the aggregate value of which exceeds \$10,000 at any time during the calendar year. [See 31 CFR §103.24; TD Form 90-22.1 (and instructions thereto).] Financial accounts are broadly defined, and the rule includes U.S. corporations and various of their subsidiaries. As a general matter, officers or employees of certain corporations (and certain of their subsidiaries) that meet specified public listing or size requirements need not report that they have signature

authority over a foreign financial account of the subsidiary if:

- they have no personal financial interest in the account, and
- they have been advised in writing by the chief financial officer of the parent corporation that a current report, which includes that account, has been filed by the corporation.

However, officers or employees from smaller and mid-sized corporations may not be excepted under these rules. [See IRS Headliner Volume 207 (June 20, 2007) available at www.irs.gov/businesses/small/article/0,,id=171490,00.html.]

Compliance with the FBAR requirement has been spotty at best, given that the requirement:

- is separate from the tax reporting requirements routinely faced by individuals and entities,
- is not a Federal tax form,
- is governed by Title 31 not Title 26 (the tax rules) of the U.S. Code, and
- is not even filed at the same time or in the same manner as federal tax forms. [See, e.g., *Senate Finance Report, Selected Issues Related to Tax Compliance With Respect to Offshore Accounts and Entities*, JCX 65-08 (July 23, 2008) (citing a 2002 estimate that FBAR compliance may be as little as 20 percent).]

In addition to the publicity from the offshore tax evasion hearings and court activity, the IRS, which was unceremoniously tagged with enforcement authority for FBAR violations a few years ago, has been trying to get out the word to those entities and individuals who have

foreign accounts, which in today's global economy amounts to an ever increasing number of potential filers, to make sure they are in compliance. [See, e.g., IR-2008-79 (June 17, 2008); see also www.irs.gov/businesses/small/article/0,,id=148845,00.html.] Furthermore, based on the Permanent Subcommittee on Investigations hearings, legislation may be enacted soon that would modify key aspects of FBAR reporting, including the period of limitations, enforcement rules and the time for filing to make the FBAR requirement more closely linked to tax filings and thus, presumably, easier to keep track of and comply with.

Penalties Outlined

Although panicking about such seemingly trivial paperwork may seem a bit pedantic, the FBAR penalties will rapidly get one's attention. As modified by the American Jobs Creation Act of 2004 (P.L. 108-357), the penalties for willful failure to file an FBAR can be as high as 50 percent of the amount in the account per violation. [31 USC §5321(a)(5).] Furthermore, while the application is not precisely clear, the IRS appears to take the position that this penalty would apply for each year an FBAR was not filed—resulting in a penalty larger than the account balance itself if FBARs were willfully not filed in more than two years. Forfeiting the entire account for failing to file a few pieces of paper is a real possibility.

The IRS has constructed internal penalty guidelines to temper this result. (For cooperative taxpayers who reported income earned from the account and who have no history of past FBAR

violations and no illegal source money in the account, the penalty is generally limited to a smaller percentage of the amount in the account and is capped at \$100,000.) However, those internal guidelines are obviously limited and are subject to change.

Although lack of knowledge regarding the FBAR requirement is a defense to willfulness, which requires a voluntary, intentional violation of a known legal duty, the IRS has indicated its belief that willfulness for civil penalty purposes must be proved not by the high-

er criminal standard of “beyond a reasonable doubt” but the somewhat lower “clear and convincing” evidence standard (there also are separate FBAR criminal penalties that involve additional amounts and imprisonment). [IRS CCA 200603026 (Jan. 20, 2006).]

As FBAR enforcement picks up more steam, it will become increasingly difficult for individuals and entities to legitimately refute the government’s attempts to prove that they knew they had an obligation to file the formerly obscure TD Form 90-22.1. In the meantime,

individuals and entities should make sure that they are in full compliance with this simple—but often overlooked—reporting obligation.

George Clarke is a Member of Miller & Chevalier’s White Collar Litigation and Tax Practices. His practice principally focuses on the defense of civil and criminal tax matters. Other elements of his practice include the defense of non-tax federal criminal matters including allegations of impropriety under the Foreign Corrupt Practices Act and other criminal laws of the United States. He can be reached at gclarke@milchev.com. ■

TAX PROCEDURES

Tax Increment Financing Encourages Development

By Raquel Alexander, Carlie Bittel, Allen Ford and Paul Koch

States and localities are increasingly using tax increment financing (TIF) to encourage development. With TIF, property or sales tax revenue generated by a redevelopment project is used to subsidize the development. Thus, TIFs significantly increase return on investment as tax liabilities are reduced and infrastructure costs are subsidized.

Since TIF’s inception in California in 1952, Arizona is the only state that has not imple-

mented formal legislation authorizing the use of TIF. [See Balsas, Carlos and Vashuda Lathey, *Tax Increment Financing (TIF) and Urban Revitalization in Arizona*, UNINTENDED CONSEQUENCES (2007), at 63–70.]

This article will define TIF, explain how a TIF proposal is evaluated and discuss how changes in assumptions made during this evaluation can affect the likelihood of receiving a TIF.

TIF Definition

TIF allows development investors to capture the increased tax revenue generated by a private development. These taxes are incremental and contingent upon the sales and/or property taxes generated by the project and are used to finance public improvements and infrastructure. Policy-makers use TIF to finance economic development and infrastructure projects without having to pass legislation or raise property tax rates. [See Craig L. Johnson, *Tax Increment Financing*, NATIONAL ASSOCIATION OF REALTORS (Robinson & Cole

LLP: Boston, 2002), NAR Smart Growth, Sept. 20, 2008.] However, elected officials and local policy-makers often require due diligence studies to determine whether or how much of a subsidy should be provided. Frequently, public officials rely on an internal rate of return (IRR) analysis to assess the need for a tax subsidy. A third-party consultant typically prepares this analysis.

TIF Evaluation

The IRR is a measure of the yield on an investment over a period of time commonly used to help analyze potential investments. It is often used to assess whether a tax subsidy is justified (that is, necessary) to encourage the investor to pursue the project. Five variables yield an IRR:

1. Project funding (investor equity + debt)
2. Initial project cost
3. Hypothetical sales price of project at end of a specified time period

Types of Benefits Offered by TIFs*

- Reduced or forgiven property taxes
- Special sales tax districts
- Refund of sales taxes collected
- Refund of employee state tax liabilities
- Low interest and/or government backed financing

* Varies by taxing jurisdiction.

4. Future cash flows generated for specified time period
5. Firm discount rate (risk-adjusted cost of capital)

Given these projections, the IRR of a project is calculated and then compared with an industry average IRR for similar development projects.

In many jurisdictions, formalized TIF policies require developers to prove, in order to justify granting the subsidy, that the project will not occur without the subsidy, known as the “but-for” clause. In other words, the IRR of the project—computed without taking into consideration the financial effects of a TIF proposal—must be lower than the expected rate of return for a similar investment. Developers can use IRR to demonstrate that only with a TIF would investors earn an adequate return sufficient to encourage realization of the development project.

IRR Assumptions

Even small changes in the assumptions made to compute a project IRR can change the outcome drastically. Here, we highlight some of the assumptions that, if changed modestly, can shift a TIF decision on a project. Developers and property owners have an incentive to decrease IRR where possible to increase the likelihood of receiving TIF funds.

Investment project funding. Shifting the mix between debt and equity to finance the project can have an enormous impact on IRR. As developers’ projected equity investment increases, the projected IRR decreases and *vice versa*. Frequently, taxing jurisdictions look for a minimum equity contribution to signal a high degree of investor participation. Increasing projected equity has the distinct advantage of demonstrating good faith while decreasing the IRR.

Initial project cost. As initial project costs increase, IRR decreases. In addition to standard construction costs, developers should incorporate contingency costs into the total cost projection. Expectations of increased costs due to rapid inflation in construction and labor expenses are easily justified in the current economic environment, so increasing contingencies and creating cushions may be prudent.

Hypothetical future selling price of project. The IRR calculation often hinges on a projected hypothetical sale of the project in a certain future timeframe. While many developers do not have plans to sell at the project’s inception, a projected sale after some period is one reasonable way to calculate the project’s IRR. A lower projected future sales price will directly reduce IRR. To arrive at this future sales value, consultants typically predict the project’s net operating income at a certain date in the future (such as in 10 or 20 years) along with the firm’s capitalization rate. This future sales price will be lower if the projected net operating income is lower, the capitalization rate used is higher or both.

Costs Financed by TIFs*

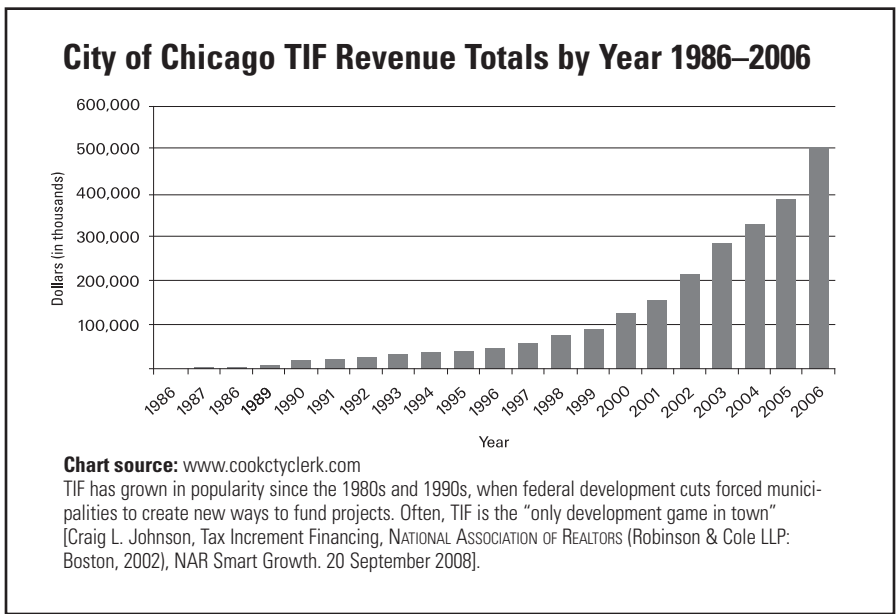
- Public infrastructure
- Land acquisition
- Demolition
- Utilities and planning costs
- Landscaping and lighting
- Parking structures
- Environmental remediation

* Varies by taxing jurisdiction.

There are a number of standard sources to obtain the typical range of capitalization rates used in each industry. Frequently, there is no single best standard. Developers and policy-makers should question the method used by the consultant and be prepared to suggest and support an alternative method.

Future cash flows. To determine expected future cash flows of an operation, a consultant or investor must project expense and revenue growth rates and production capacity for the first and remaining years in the time period until the projected sale. Projected cash flows are highly sensitive to changes in expected inflation and interest rates. Increases in

Chart 1.



expected inflation will affect projections of both revenue and expenses. For a profitable business, factoring in a higher inflation rate will make the business appear more profitable, as revenue will be projected to grow faster than expenses in the analysis. In contrast, factoring in a higher interest rate will decrease profitability overall and reduce the IRR.

Firm discount rate. This rate is used to calculate the net present value of expected future cash flows from operations and from the hypothetical sale. As the discount rate increases, the IRR decreases. It is critical to use an accurate rate that truly reflects the risk of this firm, as even a slight change could shift the projected range of IRRs dramatically. Current interest rates are at historic lows, and are generally predicted to increase. Therefore, developers considering long-term projects are likely to be justified in considering a higher discount rate in their computation of the IRR.

Conclusion

In order for policy-makers to properly exercise their duty of coming to a responsible TIF decision, they frequently rely upon outside consultants to evaluate a project's predicted IRR. This evaluation requires consideration and justification for a wide range of assumptions that are routinely necessary to conduct the IRR analysis. Developers provide the consultants with the raw data that are necessary to establish the appropriate assumptions for the analysis. The consultants should take care in justifying their assumptions used. Furthermore, the policy-makers should demand, and the consultants should conduct, a sensitivity analysis to examine how changes in the assumptions affect the projected IRR. Such an analysis is necessary for the consultant, developer and policy-makers to properly consider the issue at hand—whether the TIF is required for the developer to undertake the project.

As TIF decisions become more carefully scrutinized, executives should ask their developers or development team to present compelling cases to support TIF requests. If all parties involved in the TIF consideration are armed with information and understanding about how IRRs are calculated, we can expect developers to provide more convincing support for TIF approvals, and we can expect policy-makers to effectively articulate and weigh the costs and benefits of granting a TIF.

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DEALING WITH THE IRS

New Type of Vehicle Certified for Credit

Certain advanced lean-burn technology vehicles have been added to the roster of vehicles that qualify for the alternative motor vehicle tax credit, the IRS recently announced.

The certified advanced lean-burn technology vehicles, which generally run on diesel fuel, are passenger cars or light trucks with an internal combustion engine that is designed to operate primarily using more air than is necessary for complete combustion of the fuel, according to the IRS. In addition, the vehicles incorporate direct fuel injection technology and achieve at least 125 percent of the 2002 model year city fuel economy rating.

A taxpayer may claim the credit for a certified vehicle if he or she is the original user of the vehicle *and* the vehicle is acquired for use or lease by the taxpayer and not for resale.

Following is a list of qualifying advanced lean-burn technology vehicles and their respective credit amounts:

- 2009 Volkswagen Jetta 2.0L TDI Sedan (\$1,300)
- 2009 Volkswagen Jetta 2.0L TDI SportWagen (\$1,300)
- Mercedes GL 320 Blue TEC (\$1,800)
- Mercedes R 320 Blue TEC (\$1,550)
- Mercedes ML 320 Blue TEC (\$900)

In the past, only hybrid vehicles, fuel cell vehicles and alternative fuel vehicles had been certified for the credit. As with those types of vehicles, there is a limit on the number of advanced lean-burn technology vehicles that are eligible for credit.

The full amount of the allowable credit may be claimed up to the end of the first calendar quarter after the quarter in which a manufacturer records its sale of the 60,000th hybrid passenger automobile or light truck or advanced lean-burn technology motor vehicle. After that, taxpayers may claim 50 percent of the credit for two subsequent quarters and 25 percent of the credit for the fourth and fifth quarters. No credit is allowed after that. ■

Improvements Eyed for Debt Collection Program

The IRS and private collection agencies (PCAs) generally have followed proper procedures in the Private Debt Collection (PDC) Program, but the Treasury Inspector General for Tax Administration (TIGTA) identified a few areas for improvement.

Scope of the Review

Under the controversial PDC program, the IRS has contracted with PCAs since September 2006 to collect certain unpaid federal tax liabilities. TITGA says one goal of the program is for the PCAs to help collect the \$290 billion in federal taxes owed to the government.

TIGTA audited the PDC program as part of its Fiscal Year 2007 Annual Audit Plan due to concerns expressed by the National Taxpayer Advocate and some federal lawmakers about risks related to having private contractors participate in tax collection activity—specifically the potential disclosure of taxpayer information and violation of taxpayer rights.

However, the TITGA report, *The Internal Revenue Service and Contractors Are Generally Following Procedures Established for the Private Debt Collection Program, but Improvements Are Needed* (Reference No. 2008-30-157), does

not address the appropriateness or success of the program. Rather, it focuses on whether the IRS and contractors have complied with required procedures.

TITGA noted that the IRS has been studying the effectiveness of the PDC program and its impact on the overall collection of delinquent taxes.

IRS, PCAs Generally Followed Procedures

“Overall, the IRS and contractors have generally taken actions consistent with the procedures developed for the Program,” the TITGA report states.

Rationale Behind the PDC Program

Congress authorized the IRS to contract with private collection agencies (PCAs) when it created new Internal Revenue Code Section 6306 under the American Jobs Creation Act of 2004 (P.L. 108-357).

The law authorizes the IRS to contract with PCAs for the collection of unpaid federal tax liabilities and to pay them up to 25 percent of the amount they collect, according to a recent report from the Treasury Inspector General for Tax Administration (TIGTA).

Some federal lawmakers, along with the National Taxpayer Advocate, have been outspoken critics of the program—with some legislators even proposing bills to bar the IRS from contracting with PCAs to collect unpaid taxes.

However, supporters, such as Senate Finance Committee Ranking Member Chuck Grassley (R-Iowa), have refuted the criticism and said the program deserves “a chance to work.”

The TITGA report outlines the IRS’s three main objectives for the PDC program:

1. Help significantly reduce the growing number of uncollected tax liabilities.
2. Help maintain taxpayer confidence in the fairness of the tax system by assisting the IRS in addressing more of its delinquent accounts.
3. Assist the IRS in its continued focus to dedicate existing collection and enforcement resources on more difficult cases and issues.

Several safeguards have been incorporated into the program to help ensure that taxpayer information is not compromised and that taxpayers’ rights are not violated. The TITGA report highlights those safeguards:

- Provisions of the Fair Debt Collection Practices Act (15

USC §1692 *et seq.*) must be applied to the PCAs.

- Like IRS employees, PCA employees are prohibited from committing or omitting certain acts.
- Taxpayers have the right to pursue civil action for unauthorized collection actions by PCA employees.
- PCA employees can be terminated for misconduct if they commit certain acts or omissions.
- PCAs must comply with all taxpayer rights and protections.
- In cases where a taxpayer does not pay the tax liability, PCAs are prohibited from threatening or intimidating taxpayers, or otherwise suggesting that enforcement action will or might be taken.
- PCAs must adhere to all security and privacy regulations for systems, data, personnel and physical security. ■

In general, the IRS and PCAs:

- have complied with procedures for recalled accounts,
- took appropriate actions to obtain full payment from taxpayers, and
- took timely and appropriate actions to address reported complaints.

According to TITGA, the IRS also properly used the initial inventory selection criteria for PCAs and adequately conducted the closeout review of one of the original PCAs whose contract ended on March 8, 2007.

In addition, the report states that “the PCAs appropriately monitored installment agreements with taxpayers for default conditions and adequately met quality standards during telephone calls with taxpayers.”

Certain Issues Already Addressed

After TIGTA notified IRS management about several issues that needed to be addressed, the IRS took corrective action. The issues included the following:

- There was inconsistency between what the IRS and the PCAs considered to be complaints.

- The Complaint Panel’s role needed to be defined.
- Contractors were not always able to verify the identity of the taxpayer over the telephone, meaning that they could not discuss the taxpayer’s account or request payment.
- The reliability of results was affected when quality review skip intervals were improperly calculated and applied.
- The results of quality reviews were unreliable for a variety of reasons: quality review sampling methodologies were merged, results were not properly weighted, telephone monitoring and case action reviews were not conducted on a regularly scheduled basis and the quarterly sampling requirements were not met for telephone monitoring and case action reviews.
- Requests from taxpayers to opt out of the PDC program were inconsistently processed.
- Although PCAs properly established installment agreements, they did not always document certain actions.
- In some cases, the Taxpayer Advocate Service (TAS) did not properly code cases on its

computer system, and case advocates did not meet notification requirements of TAS activity on cases. TIGTA also noted that the IRS and the PCAs did not always properly track and process TAS cases.

According to TITGA, another issue still needs to be addressed: since the PCAs administer taxpayer satisfaction surveys to taxpayers, this could influence the results and produce low participation rates.

TITGA Makes Additional Recommendations

The report outlines several recommendations to the IRS’s Small Business/Self-Employed Division:

- Add a link to the national Web page to help taxpayers verify whether the PCA calling them is an approved contractor, and revising provisions in the Policy and Procedures Guide for PCAs relating to the authentication process.
- Revise the Oversight Quality Handbook to reflect applicable changes.
- Create a team to study ways to improve the taxpayer satisfaction survey participation rate. ■

PERSONAL TAXES

Homebuyer’s Credit Resembles a Loan

If you or a family member purchases a home for the first time after April 8, 2008, and before July 1, 2009, you might be eligible for a new tax credit included in the Housing and Economic Recovery Act of 2008 (P.L. 110-289).

First-time homebuyers and those who have not owned a home in the three years prior to a purchase can qualify for the credit if they are purchasing a primary residence located in the United States.

Qualified single taxpayers and married couples filing jointly are eli-

gible for a credit of 10 percent of the purchase price of the home—up to \$7,500, according to the IRS. Married individuals filing separately can receive a credit of up to \$3,750.

Since the credit reduces a taxpayer’s tax bill (or increases his or her refund) dollar for dollar, the claimed credit will be paid out to eligible taxpayers whether or not they owe tax and even if the credit is greater than the federal income tax that they owe, the IRS reports.

However, there are a couple of catches:

- **The credit must be repaid over a 15-year period.** Since the credit operates much like an interest-free loan, taxpayers receiving the credit generally must pay it back by including one-fifteenth of the amount as an additional tax on their federal income tax return for 15 years, according to the IRS.
- **Certain income limits apply.** The full credit is available for married couples filing jointly if their modified adjusted gross

income (MAGI) is \$150,000 or less and for other taxpayers whose MAGI is \$75,000 or less. The credit is completely phased out at \$170,000 for married couples filing jointly and at \$95,000 for others.

A taxpayer will not be eligible for the credit if any of the following factors applies: the home is purchased from the taxpayer's spouse, parent, grandparent, child or grandchild; the taxpayer stops using the home as his or her main home; the home

is sold before the end of the year; the taxpayer is a nonresident alien; the taxpayer could claim the District of Columbia first-time homebuyer credit for any tax year; and the home financing comes from tax-exempt mortgage revenue bonds. ■

COMPENSATION & BENEFITS

Wireless Devices Use Could Signal Legal Problems

Do you encourage employees to check e-mail after hours or take phone calls while driving? If so, you might be exposing your company to a lawsuit, according to Pepper Hamilton LLP, a multi-practice law firm (www.pepperlaw.com).

BlackBerries® and other wireless devices have changed individuals' daily lives—personally and professionally. While the technology may make employees more efficient, it could also create potential legal liabilities.

Overtime Issues

Companies could find themselves in trouble with provisions of the federal Fair Labor Standards Act (FLSA) and state overtime laws if nonexempt employees use laptops, BlackBerries or other wireless devices to stay connected to the office outside of normal working hours, according to Amy McAndrew, an attorney with Pepper Hamilton.

"In our high-tech, highly-connected work world, determining whether a nonexempt employee is working overtime for which he or she should be compensated can present challenging issues for many employers," said McAndrew.

Court interpretations. Courts have stated that "insubstantial or insignificant periods of time" do not need to be counted as compensable work time under FLSA, because they are considered *de minimis* (i.e., minimal), according to the law firm. "However, the

regulations interpreting the FLSA say that working as little as 10 minutes per day should not be considered *de minimis* under the law," McAndrew said. "Therefore, if a nonexempt employee uses technology such as a cell phone, a remote Internet connection, or

Companies could find themselves in trouble with provisions of federal and state overtime laws if nonexempt employees use laptops, BlackBerries or other wireless devices to stay connected to the office outside of normal working hours.

a BlackBerry outside of regular work hours and, as a result, works more than 40 hours per week, that work may have to be compensated as overtime."

"Company management is responsible for controlling the use of this outside technology. They cannot simply accept the benefits of employee work without proper compensation," she added.

Proactive steps. Legal claims for overtime pay based on the use of outside technologies, such as BlackBerries® and laptops, have not surfaced yet, according to Pepper Hamilton. However, with an increasing number of FLSA

class actions in recent years, the firm recommends that companies take steps to protect themselves from this potential vulnerability.

"To protect against these types of claims, it is vital to create and enforce written policies regarding the use of technology outside of normal work time. For example, employers should consider updating their employee handbooks, and implementing policies regarding the use of devices such as cell phones, BlackBerries and laptops, during traditionally nonwork time," McAndrew said.

McAndrew recommends that those policies include the following:

- A limit on the amount of time that nonexempt employees can spend using these devices for work outside of normal work hours
- A requirement that nonexempt employees receive permission before using these devices after normal work hours
- A mandate that nonexempt employees report all work time—even when they work outside of normal working hours—to ensure payment for work completed

Safety Concerns

The physical safety of employees and third parties is at stake when workers use their cell phones while driving an automobile, according to Pepper Hamilton.

“Virtually all employees have either personal or business cell phones, and many workers use these phones for work-related calls. Not surprisingly, over the last decade, claims against employers for accidents involving employees’ cell phone use while driving have steadily increased,” said McAndrew.

“Employers should carefully consider what message they want to send to their employees regarding the use of cell phones for business-related calls, given the potential liability risks,” McAndrew added. “Because an outright ban on cell phone use by employees while driving is unlikely to be effective, employers should have in place clear, written policies and safety guidelines as a means to keep employees and the public safe and to mitigate potential liability.”

Pepper Hamilton offers the following list of factors to consider when writing a cell phone use policy:

- **Applicable state laws.** Some states prohibit the use of handheld cell phones while driving, so it is important to direct employees to comply with those laws. Even if employees are not bound by state law to use hands-free devices if using a cell phone while driving, employers might want to require employees to do so.
- **Safety measures.** Tell employees that they must pull their cars over to the side of the road before answering cell phone calls. Instruct them not to pick up cell phone calls while driving, except in an emergency, and emphasize the importance of

safety while taking calls on the road.

- **Rewrite job descriptions.** Steer clear of including the use of cell phones while driving.
- **Traffic, weather considerations.** Prohibit cell phone use while driving in adverse weather or difficult traffic situations.

“As with so many other issues that face employers today, the new technology that can help their businesses to run more effectively and competitively can also present significant legal challenges,” McAndrew said. “It is vital that employers carefully consider the use of technology by their employees and adopt clear, written policies as a means to mitigate potential liability.” ■

Executive’s Briefcase

New Web Site Offers HSA Information

Small businesses wondering how health savings accounts (HSAs) can help meet their employees’ health care needs can tap a variety of resources at www.hsa.gov, a new Web site recently announced by the Treasury Department and the U.S. Small Business Administration.

The Web site:

- explains the advantages of HSAs,
- provides comparisons to other health coverage options, and
- offers other materials to help employers and individuals determine whether and how to enroll in HSA-eligible coverage and how to save for health care costs through an HSA.

CFOs Feeling the Credit Crunch

Sixty-four percent of CFOs and senior comptrollers surveyed in mid-September reported that credit

was harder to come by than it had been a year earlier, and 55 percent said credit costs have increased, according to Grant Thornton LLP (www.grantthornton.com). However, only 14 percent of survey respondents have had to return to bank credit because they couldn’t access alternative financing structures.

Survey participants also were asked about their opinion of the overall economy. Forty-seven percent said the condition of the U.S. economy will remain the same through March, while 22 percent said it would improve and 31 percent anticipated that the economy will worsen in the next six months.

Other survey highlights include the following:

Forty percent of respondents indicated that they expect their own company’s financial prospects to improve by March, while 17 percent said they would get worse.

- Slightly more than half—51 percent—did not anticipate a

change in process or fees within the next six months, however, 42 percent said their company will likely increase prices.

- Employee benefits was ranked as senior executives’ top pricing pressure concern (55 percent), compared to energy (40 percent), raw materials (39 percent) and insurance (17 percent).
- Forty-seven percent of survey participants expected the size of their workforce to remain the same over the next six months, while 30 percent anticipated an increase and 23 percent expected their headcount to decline.

Technical Terminations of Partnerships Studied

Taxpayers who follow upcoming guidance on technical terminations of publicly traded partnerships (PTPs) can avoid time-consuming audits, according to the IRS.

Through its Industry Issue Resolution (IIR) program, the IRS plans to release guidance on technical terminations of a PTP that result in multiple short tax years within one calendar year. Specifically, the IIR program is considering situations in which more than 50 percent of a PTP's capital and profits interest are sold or exchanged within a 12-month period, which results in a technical termination of a PTP under Internal Revenue Code section 708(b).

Since a technical termination results in the PTP having two short tax years, the PTP must file a Form 1065, *U.S. Partnership Return of Income*, for each short tax year—a requirement that can cause tax problems for the partnership, the IRS explains.

Now in its eighth year, the IIR Program provides clarification on complex tax issues. A multi-functional team gathers and analyzes the relevant facts for each issue selected for the program and then recommends guidance.

For information on IIR project selection criteria and submission procedures, see Rev. Proc. 2003-36, IRB 2003-18, 859, which is available at www.irs.gov.

IRS Updates Corporate, Partnership Drafts Forms

Updated versions of certain corporate and partnership tax forms will be put into use for tax years ending on or after December 31, 2008, the IRS has announced.

The IRS recently released draft revisions to Form 1065, *U.S. Return of Partnership Income*; Form 1120, *U.S. Corporation Income Tax Return*; and certain related schedules. The release includes new Schedule B for Form 1120 and Schedule C for Form 1065.

Comments received from the initial drafts released in August 2007 are reflected in the draft forms.

“The draft revisions and new forms will increase transparency about the ownership and relationships between entities that make up complex enterprise business structures,” said Frank Y. Ng, commissioner of the Large and Mid-Size Business Division of the IRS. “This will enable IRS to better assess compliance risk.”

Here is an overview of the major changes:

- **Form 1120.** Certain questions on Form 1120's Schedule K have been revised for reporting direct and indirect ownership.
- **Schedule B (Form 1120).** Corporations that file Form 1120 Schedule M-3 must file the new Schedule B (Form 1120), which provides information about allocations, transfers of interest, cost sharing arrangements and changes in methods of accounting.
- **Schedule B (Form 1065).** This schedule must be filed when ownership meets certain percentage thresholds. The revised Schedule B (Form 1065) also asks partnerships to provide information about cancelled debt, as well as like-kind exchanges that the partnership may have participated in at any time during the tax year. For small partnerships, the asset threshold for filing Schedules L, M-1 and M-2 with Form 1065 has risen from \$600,000 to \$1 million, according to the IRS.
- **Schedule C (Form 1065).** Form 1065 filers that file Schedule M-3 must file the new Schedule C (Form 1065), which includes information about related party transactions, allocations, transfers of interest, cost sharing arrangements and changes in methods of accounting.

- **Item J of Schedule K-1 (Form 1065).** New instructions for Item J clarify how partnerships determine partners' percentage share in the profit, loss and capital at the beginning and end of the partnership's tax year.

To view the redesigned draft forms, visit www.irs.gov.

First Bailout Bill Raises Taxes on Second Homes

At press time, all eyes were focused on the enactment of the government's financial “rescue” plan and its impact on the economy and taxpayers. However, the bailout of mortgage giants Fannie Mae and Freddie Mac about two months earlier also include provisions that will directly impact taxpayers.

For example, that law contains a provision that increases the future capital gains taxes on owners of second homes, said U.S. Rep. Kevin Brady (R-Texas), who fought against the provision.

Under previous law, individual taxpayers were entitled to exclude from capital gains taxes up to \$250,000 (\$500,000 for married couples) on the sale of a second home after it has been their main residence for two years. Now, owners will be hit by capital gains taxes sooner—how soon depends on the number of years they have lived in the second home in relation to how long they have owned it, he explained.

“The damage caused by raising taxes on second home owners won't appear immediately,” he says. “I am concerned that in the long run this tax increase could hurt the resale value of second homes, making them less attractive as an investment” and lowering property values in retirement and resort communities. ■

What Does CSR Mean to You?

The financial crisis on Wall Street demonstrates that some businesses do not fully understand corporate social responsibility, according to Sirota Survey Intelligence (www.sirota.com).

“Corporate social responsibility, or CSR, is the idea that a company must broaden its perspective from one that is focused primarily on profitability to a more inclusive viewpoint that considers the social and environmental implications of its acts,” says Michael Meltzer, chief executive officer of Sirota Survey Intelligence, a firm that specializes in stakeholder attitude research. “CSR is the realization that shareholder value may be diminished or even destroyed over time by a singular focus on short-term profitability and

increasing the earnings of executives.”

Many companies who support philanthropic causes are under the false impression that such efforts mean they are engaging in corporate social responsibility, he explains.

“Often, a so-called CSR program finds expression in acts of philanthropy and other ‘good deeds,’ rather than in a fundamental shift in the way a business looks at itself and how it interacts with key stakeholders around the world. But, this is a misstep, albeit often an innocent one,” Meltzer says. “Responsibility is not simply about doing good deeds that may be quite unrelated to the business itself; it is mostly about the actual conduct of the business and the impact of this conduct on all stakeholders.”

He adds, “Building a truly responsible and sustainable company requires appreciating the needs and interests of all stakeholders, and aligning the organization—and its profit motive—with those needs and interests.”

“Real corporate responsibility stems from the realization that organizations and their stakeholders are dependent on each other. It’s in their mutual interest to build partnership relationships with each other,” Meltzer continues. “Implicit in such productive relationships is the consideration of the long-term consequences and implications of an organization’s behaviors. Short-term thinking is destructive to a relationship that should be based on mutual trust and building joint value.” ■

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