



Emergency Economic Stabilization Act of 2008

What are the tax implications to you and your business?

Though originally designed with a singular focus on the stabilization of the financial markets, the Emergency Economic Stabilization Act of 2008 (the Act) broadened during the legislative process to include extensive tax, energy, and disaster relief provisions. Signed into law on Oct. 3, 2008, the Act addresses financial market turmoil by establishing a \$700 billion federal program authorizing the Treasury to purchase or insure distressed assets from financial institutions. Financial institutions participating in the program are subject to limitations as established by the Treasury.

Representing one of the largest tax bills in recent history, the Act provides for an estimated \$150 billion in business and individual tax incentives and approximately \$44 billion in revenue-raising offsets over the next ten years. To encourage a broad spectrum of energy conservation and production-related activities, the Act extends and establishes tax incentives for wind energy, biodiesel, and other clean energy sources, while promoting additional oil production through a refinery expensing provision. The Act also includes disaster tax relief for the Midwest and other federally-declared disaster areas.

The following table highlights provisions from the Act. With the bulk of the Act's provisions having immediate impact in 2008 and 2009, we recommend you take steps to consult with your Freed Maxick & Battaglia CPAs or other tax advisor to assess the specific tax implications to you and your business.

| Highlights from the Act | |
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| Financial Markets | <ul style="list-style-type: none"> ▪ Authorizes Treasury to make direct and auction purchases of or insure assets of certain financial institutions through a Troubled Asset Relief Program (TARP) ▪ Requires companies participating in TARP to meet certain executive compensation standards ▪ Limits deductibility of compensation paid to a senior executive officer at certain participating companies to \$500,000 ▪ Allows for recovery of bonuses or incentives paid to a senior executive officer at certain participating companies if based on earnings that later prove to be inaccurate ▪ Limits or prohibits certain golden parachute payments for participating companies ▪ Treats losses on sales of Fannie Mae and Freddie Mac preferred stock by community banks and other qualifying financial institutions as ordinary rather than capital ▪ Increases FDIC insurance on bank accounts from \$100,000 to \$250,000 per depositor per bank through 2009 |
| AMT Patch | <ul style="list-style-type: none"> ▪ Increases AMT exemption amount to \$46,200 (\$69,950 for joint filers) for 2008 ▪ Extends ability to offset AMT with nonrefundable personal credits, such as dependent care and education tax credits, through 2008 ▪ Modifies and extends AMT credit allowance against incentive stock options (ISOs) and abates certain ISO-related AMT underpayments and associated penalties and interest |



Highlights from the Act

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| Business Incentives | <ul style="list-style-type: none">▪ Extends research credit for 2008 and 2009, while both increasing the alternative simplified credit to 14% and repealing the alternative incremental research credit for 2009▪ Extends new markets tax credit through 2009▪ Extends 15-year, straight-line cost recovery for qualified leasehold and restaurant improvements through 2009, with qualified retail property and new restaurants newly eligible in 2009▪ Extends through 2009 the provision limiting the basis adjustment to stock of an S Corporation making charitable property contributions▪ Extends enhanced charitable deductions for certain business contributions of food to charitable organizations and books and computer equipment to qualifying schools▪ Suspends limitations on charitable contributions of food made before Jan. 1, 2009 by farmers or ranchers▪ Extends the exclusion under Subpart F for active financing income through 2009▪ Extends look-through treatment of payments between related CFCs under foreign personal holding company rules |
| Individual Incentives | <ul style="list-style-type: none">▪ Extends for three years the exclusion of up to \$2 million of cancellation of principal residence-related indebtedness income for homeowners▪ Extends \$500 additional standard deduction (\$1,000 for joint filers) for real property taxes for non-itemizers through 2009▪ Allows itemized deduction for state and local sales taxes in lieu of state and local income taxes for 2008 and 2009▪ Extends the above-the-line \$4,000 maximum deduction for higher education tuition and related expenses through 2009▪ Extends provision allowing tax-free contributions from IRAs to qualified charitable organizations through 2009▪ Enhances child tax credit by reducing the earned income floor from \$12,050 to \$8,500▪ Extends \$250 deduction for classroom expenses of elementary and secondary school teachers through 2009▪ Extends withholding exception for interest -related dividends of Regulated Investment Companies (RICs) through 2009▪ Extends estate tax look-through for RIC stock held by nonresidents through 2009▪ Extends treatment of RICs as qualified investment entities through 2009 |
| Return Preparers | <ul style="list-style-type: none">▪ Modifies return preparer understatement penalty standard under IRC §6694 to require substantial authority for undisclosed positions, reasonable basis in cases of adequate disclosure, and a belief that the position is more likely than not to be sustained on its merits for tax shelters and reportable transactions |



Highlights from the Act

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| Offsets | <ul style="list-style-type: none">▪ Requires brokers to report the basis of publicly-traded securities and indicate the security holding period (short-term or long-term) when reporting sales transactions, with provisions taking effect starting in 2011▪ Enacts new provision taxing certain foreign nonqualified deferred compensation upon vesting▪ Limits the IRC §199 domestic production activities deduction to 6% for oil and gas production▪ Increases the oil spill liability trust fund tax and extends through 2017▪ Tightens limits on foreign tax credits for oil and gas extraction income, effective for 2009▪ Extends the .2% FUTA surtax through 2009 |
| Energy | <ul style="list-style-type: none">▪ Extends IRC §45 production credit through 2009 for wind and refined coal and through 2010 for other sources▪ Extends IRC §48 energy credit for solar energy, fuel cell, and microturbine property through 2016▪ Reinstates IRC §25C credit for purchases of residential energy property placed in service in 2009▪ Modifies and extends through 2016 the IRC §25D residential energy-efficient property credit for solar, small wind, and geothermal investments▪ Extends IRC §179D deduction for energy-efficient commercial buildings through 2013▪ Expands nontaxable transportation fringe benefit rules to include a \$20 per month bicycle commuter reimbursement, beginning in 2009 |
| Disaster Relief | <ul style="list-style-type: none">▪ Extends net operating loss carryback period to five years for losses attributable to expenditures on new investment, damage repairs, casualty losses, and employee moving expenses or temporary housing in Midwestern disaster areas▪ Increases bonus depreciation by up to 50 percent of the cost of real and personal property investments made in Midwestern disaster areas▪ Allows expensing of 50% of general demolition and clean-up costs incurred in Midwestern disaster areas that would otherwise be capitalizable▪ Increases IRC §179 expensing from \$250,000 to \$350,000 for qualifying expenditures made in the Midwestern disaster areas through 2011▪ Provides relief for taxpayers affected by Hurricane Ike in the form of tax-exempt bond financing and enhanced low-income housing incentives▪ Extends the increased rehabilitation credit for the Gulf Opportunity Zone through 2009▪ Extends the enhanced work opportunity tax credit for employers impacted by Hurricane Katrina through 2009 |

The table highlights particular financial bailout and tax provisions from Public Law 110-43 and should not be viewed as comprehensive coverage of the law.