THE TAX AUTHORITY Update Bulletin

10/10/2008
Emergency Economic Stabilization Act of 2008

Public Law 110-343
H.R. 1424
Joint Committee technical explanations of new law:
- Division A – Emergency Economic Stabilization Act of 2008.
- Division B – Energy Improvement and Extension Act of 2008 – Renewable Energy provisions.
- Division C – Tax Extenders and Alternative Minimum Tax Relief Act of 2008.
- Title VII of Division C – Tax Extenders and Alternative Minimum Tax Relief Act of 2008 – Disaster Tax Relief provisions.

Affected pages in *TheTaxBook*™ - See pages 1-4, 1-6, 1-7, 10-1, 11-2, and SB9-1

On Friday, October 3, 2008, the President signed into law H.R. 1424, the Economic Stabilization Act of 2008. The law provides authority for the Federal Government to purchase and insure certain types of troubled assets for the purposes of providing stability to and preventing disruption in the economy and financial system. It also amends the tax code to provide incentives for energy production and conservation, to extend certain expiring tax provisions, to provide individual income tax relief, to provide disaster relief for those in federally declared disaster areas, and for other purposes.

The following is our coverage of relevant information in the law that will be covered in the 2008 Tax Year Edition of *TheTaxBook*™.

TheTaxBook™ Summary of HR 1424 – Relevant Tax Provisions

Note: All page references are to the 2007 Edition of *TheTaxBook*™.

Extension of Expiring Provisions

The new law extends a number of tax provisions set to expire. The following is a list of tax provisions that have been extended, along with page references to the 2007 tax year edition of *TheTaxBook*™:

- The option to deduct state and local general sales taxes instead of state and local income taxes on Schedule A has been extended through the end of 2009. (Page 4-9)
- The tuition and fees deduction as an adjustment to AGI has been extended through the end of 2009. (Page 12-2)
- The up to $250 deduction for educator expenses as an adjustment to AGI has been extended through the end of 2009. (Page 3-5)

- The increased 2008 standard deduction for real property taxes paid has been extended through the end of 2009. (See the *Housing Assistance Tax Act of 2008*)
- The ability to exclude an IRA distribution from income when contributed to a charity has been extended through the end of 2009. (Page 4-18)
- The exclusion for the discharge of debt on a principal residence has been extended through the end of 2012. (Page 14-10)
- The energy credit has been extended through the end of 2016. (Page 11-2)
- The credit for residential energy efficient property has been extended through the end of 2016. (Page 11-11)
- The biodiesel and renewable diesel fuels credit has been extended through the end of 2009. (Page 11-2)
- The nonbusiness energy property credit expired for improvements placed in service after 2007. It has been extended for improvements placed in service during 2009 (but not during 2008). (Page 11-11)
- The alternative fuel vehicle refueling property credit has been extended for property placed in service through the end of 2010. (Page 11-12)
- The energy efficient commercial building property deduction has been extended through the end of 2013. (Page 8-7)
- The energy efficient home credit has been extended through the end of 2009. (Page 11-11)
- The energy efficient appliance credit has been extended through 2008, 2009, and in some cases, 2010 for dishwashers, clothes washers, and refrigerators, depending upon their kilowatt hour per year rating. (Page 11-11)
- The 6.2% FUTA tax rate has been extended through the end of 2009. (Page 23-6 and SB11-6)
- The provision allowing nonrefundable personal tax credits to offset AMT has been extended to through the end of 2008. (Page 14-4)
- The increased AMT exemption amounts over the 2000 rates has been extended through the end of 2008. (Page 14-4)
- The research credit has been extended through the end of 2009. (Page 11-10)
- The new markets credit has been extended through the end of 2009. (Page 11-10)
- The 15-year straight-line depreciation method for qualified leasehold improvements and qualified restaurant property has been extended through the end of 2009. (Page 9-20)
- The provision allowing an S corporation shareholder to reduce stock basis by the shareholder's pro rata share of the basis in property contributed to charity (as opposed to reducing basis by the FMV of the property contributed) has been extended through the end of 2009. (See the *Tax Technical Corrections Act of 2007*)
- The Indian employment credit under Section 45A has been extended through the end of 2009. (Page SB9-5)
- The election to deduct environmental clean-up costs (instead of capitalizing the costs) has been extended through the end of 2009. (Page 8-7)
- The provision treating a Hurricane Katrina employee as a member of a targeted group for purposes of the work opportunity credit has been extended through August 27, 2009. (Page 11-10)

- The increased rehabilitation credit for structures in the Gulf Opportunity Zone has been extended through the end of 2009.
- The special deduction for contributions of computer technology by a corporation is extended through the end of 2009. (Page 18-10)
- The first-time homebuyer credit for the District of Columbia has been extended through the end of 2009. (See the *Housing Assistance Tax Act of 2008*)
- The special deduction for contributions of book inventories to public schools by a corporation is extended through the end of 2009. (Page 18-10)
- The special deduction for contributions of food inventory by a business (not necessarily a corporation) is extended through the end of 2009. (See the *Katrina Emergency Tax Relief Act of 2005*)
- The election under Section 181 to deduct qualified film and television production costs (as opposed to treating them as capital expenses) has been extended through the end of 2009. (Page 1-6)

Additional Child Tax Credit Increase

***TheTaxBook*™, page 11-3 of the 1040 Edition.** In general, if any portion of the regular child tax credit is disallowed because tax is reduced to zero before the entire credit is used, the taxpayer may qualify for an additional child tax credit. The additional child tax credit is a refundable credit.

New for 2008. The maximum additional child tax credit is calculated as follows:

For taxpayers with one or two children, the additional child tax credit is the lesser of:

- The disallowed portion of the regular child tax credit, or
- 15% of the taxpayer's earned income in excess of $8,500.

For taxpayers with three or more children, the additional child tax credit is the lesser of:

- The disallowed portion of the regular child tax credit, or
- The larger of:
  a) 15% of the taxpayer's earned income in excess of $8,500, or
  b) FICA and Medicare tax paid minus the earned income credit.

Income Tax Return Preparer Penalties

***TheTaxBook*™, page 1-15 and page 15-2 of the 1040 Edition and page SB1-9 of the Small Business Edition**. If there is an understatement of tax on a tax return prepared by a paid income tax return preparer, the return preparer may be subject to a penalty equal to the greater of $1,000 per return or 50% of the income derived (or to be derived) from the return or returns to which the penalty is imposed. The penalty may be avoided if the position that caused the understatement of tax is disclosed on the return. The penalty may also be avoided if the return preparer takes an undisclosed position on the return that

reasonably should have been sustained on its merits. The *Small Business and Employment Opportunity Tax Act of 2007* raised the preparer standard from the "realistic possibility" standard to the more stringent "more likely than not" standard, which refers to the likelihood that the position taken on the return would be sustained on its merits. The "more likely than not" standard is generally believed to be a greater than 50% chance the position taken will be upheld if the IRS challenges it in an audit. The "realistic possibility" standard is generally believed to be a one in three chance the position taken will be upheld in an audit. Raising the bar for tax preparers created a potential conflict between preparers and clients, since taxpayers were generally subject to a lower standard of "substantial authority."

New Law. The new law eliminates the conflict by changing the preparer standard from "more likely than not" to "substantial authority," which matches the standards to which taxpayers are held. The provision is retroactive to the date the 2007 law was enacted, which is for returns prepared on or after May 25, 2007. The new law does not lower the "more likely than not" standard for tax shelters and reportable transactions.

Farm Machinery Treated As 5-Year Property

***TheTaxBook*™, page 5-2 and page 9-8 of the 1040 Edition.** For 2008, farm machinery and equipment is treated as 7-year property for depreciation purposes. For property originally used by the taxpayer after December 31, 2008 and placed in service before January 1, 2010, certain farm machinery and equipment is treated as 5-year property under the GDS (MACRS) class life system, and 10-year property under the ADS class life system. This rule applies to machinery or equipment, other than grain bins, cotton ginning assets, fences, or land improvements, which are used in a farming business.

Broker Reporting of Customer's Basis in Securities Transactions

IRC §6045(g). If a broker is otherwise required to issue a 1099 with respect to the gross proceeds of the sale of a covered security, the broker must include the following information on the 1099:

- The customer's adjusted basis in the security and whether any gain or loss is long-term or short-term.
- The adjusted basis must be reported under the first-in first-out method unless the customer notifies the broker and makes an adequate identification of the stock sold or transferred.
- If the average basis method is permissible, the broker may use that method as the default method unless the customer notifies the broker that he or she elects another acceptable method.

Exception for wash sales. The customer's adjusted basis may be determined without regard to the wash sale rules under Section 1091 unless the transactions occur in the same account with respect to identical securities.

Covered securities. For purposes of the broker reporting rules, the following securities are covered by these rules:

- The term covered security means any specified security acquired on or after the applicable date if such security:
  - i) Was acquired through a transaction in the account in which such security is held, or
  - ii) Was transferred to such account from an account in which such security was a covered security, but only if the broker received a statement under Section 6045A with respect to the transfer.
- The term specified security means:
  - i) Any share of stock in a corporation,
  - ii) Any note, bond, debenture, or other evidence of indebtedness,
  - iii) Any commodity, or contract or derivative with respect to such commodity, if the IRS determines that adjusted basis reporting is appropriate for purposes of this rule, and
  - iv) Any other financial instrument with respect to which the IRS determines that adjusted basis reporting is appropriate for purposes of this rule.

Applicable date. The term applicable date means:

- January 1, 2011, in the case of any specified security which is stock in a corporation (other than any stock described under the second bullet below),
- January 1, 2012, in the case of any stock for which an average basis method is permissible under Section 1012, and
- January 1, 2013, or such later date determined by the IRS in the case of any other specified security.

S corporations. In the case of the sale of a covered security acquired by an S corporation (other than a financial institution) after December 31, 2011, an S corporation will be treated in the same manner as a partnership for purposes of these rules.

Short sales. In the case of a short sale, reporting under these rules will be made for the year in which the sale is closed.

Options [IRC §6045(h)]. If a covered security is acquired or disposed of pursuant to the exercise of an option that was granted or acquired in the same account as the covered security, the amount received with respect to the grant or paid with respect to the acquisition of the option will be treated as an adjustment to gross proceeds or as an adjustment to basis, as the case may be. For other rules that apply to option reporting, see Section 403 of Division B of H.R. 1424.

Dividend reinvestment plans. If a broker transfers a covered security to another broker, the broker that transfers the covered security must furnish the new broker with information that will enable the new broker to meet the requirements of Section 6045(g).

For other special rules that apply to the basis reporting of stock while held as part of a dividend reinvestment plan, see Section 403 of Division B of H.R. 1424.

Alternative Minimum Tax Relief

Increase in AMT exemption amounts, *TheTaxBook*™, page 14-4 of the 1040 Edition. The 2008 AMT exemption amounts have been increased as follows:

- Single or HOH $46,200
- MFJ or QW $69,950
- MFS..$34,975

Unless Congress extends the amounts again, the 2009 AMT exemption amounts will be:

- Single or HOH $33,750
- MFJ or QW $45,000
- MFS..$22,500

Nonrefundable personal credits, *TheTaxBook*™, page 14-4 of the 1040 Edition. The provision to allow nonrefundable personal credits against AMT was set to expire after 2007. The new law extends the provision for 2008.

Refundable AMT credit, *TheTaxBook*™, page 14-5 of the 1040 Edition. The *Tax Relief and Health Care Act of 2006* added a new provision to the AMT rules that allows for a portion of the AMT credit amount to be refundable. The *Tax Technical Corrections Act of 2007* changed the rules to say that for tax year 2007, the refundable credit amount equals the greater of:

- $5,000,
- 20% of the long-term unused minimum tax credit, or
- The AMT refundable credit amount (if any) for the prior taxable year (before any reduction by reason of AGI).

The new law changes the rule for tax year 2008. The refundable credit amount (not in excess of the long-term unused minimum tax credit for the year) equals the greater of:

- 50% of the long-term unused minimum tax credit, or
- The AMT refundable credit amount (if any) for the prior taxable year (before any reduction by reason of AGI).

Incentive stock options - AMT, *TheTaxBook*™, page 14-4 of the 1040 Edition. For regular tax, no income is recognized when an incentive stock option (ISO) is exercised. For AMT purposes, the difference between the FMV of the stock at the time of acquisition and the price paid for the stock is an adjustment to AMT income.

The new law abates any underpayment of tax, interest, and penalties outstanding as of October 3, 2008 due to the AMT rules on ISOs under Section 56(b)(3) for any taxable year prior to 2008.

The new law also increases the AMT refundable credit amount and the minimum tax credit for 2008 and 2009 by 50% of the aggregate amount of interest and penalties paid by the taxpayer before October 3, 2008, which would have been abated under the above rules had the interest and penalties not been paid by the taxpayer as of October 3, 2008.

> **Author's Comment:** In other words, the new law abates the AMT, penalties, and interest on any ISO for years prior to 2008. If penalties and interest have already been paid, the AMT refundable credit will recover these over a two year period. If AMT has already been paid, that amount will also be recovered over a two year period as an AMT refundable credit.

Gain or Loss from Sale or Exchange of Certain Preferred Stock

***TheTaxBook™*, page 6-8 of the 1040 Edition.** Effective for sales or exchanges after December 31, 2007 for tax years ending after December 31, 2007, gain or loss from the sale or exchange of applicable preferred stock by an applicable financial institution shall be treated as ordinary income or loss.

Applicable preferred stock. The term applicable preferred stock means any stock which is preferred stock in the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, and which was held by the applicable financial institution on September 6, 2008, or was sold or exchanged by the applicable financial institution on or after January 1, 2008, and before September 7, 2008.

Applicable Financial Institution. In general, the term applicable financial institution includes:

- A bank,
- Mutual savings bank,
- Cooperative bank,
- Domestic building and loan associations,
- Other savings institutions chartered and supervised as savings and loan associations under Federal or State law,
- Certain small business investment companies,
- Certain business development corporations,
- Depository institution holding companies.

Special rules and exceptions to ordinary gain or loss treatment may apply.

Author's Comment: This rule is designed to allow community banks and other qualifying financial institutions that hold preferred stock in Fannie Mae and Freddie Mac to threat their losses as ordinary losses. This rule is not available to individuals.

Executive Compensation of Employers Participating in the Troubled Assets Relief Program

IRC §162(m). In the case of an applicable employer, no deduction is allowed:

- In the case of executive compensation for any applicable taxable year which is attributable to services performed by a covered executive during the year, to the extent that the amount of compensation exceeds $500,000, or
- In the case of deferred compensation for any taxable year for services performed during the year by a covered executive, to the extent that the amount of deferred compensation exceeds $500,000 reduced (but not below zero) by the sum of:
  (I) the executive compensation for the applicable taxable year, plus
  (II) the portion of the deferred compensation for such services which was taken into account under this rule in a preceding taxable year.

Applicable employer. The term applicable employer means any employer from whom one or more troubled assets are acquired under a program established by the Secretary under Section 101(a) of the *Emergency Economic Stabilization Act of 2008* if the aggregate amount of the assets acquired for all taxable years exceeds $300,000,000.

Special rules. Special rules and exceptions apply in determining an applicable employer in the case of a direct purchase, the determination of an applicable taxable year, covered executives, highly compensated employees, executive compensation, deferred compensation, golden parachute payment rules, and severance from employment of a covered executive.

Qualified Principal Residence Indebtedness Exclusion

***TheTaxBook*™, page 1-6 of the 1040 Edition.** Under the *Mortgage Forgiveness Debt Relief Act of 2007,* gross income does not include the cancellation of qualified principal residence indebtedness. The new law extends the provision to apply to discharges of indebtedness before January 1, 2013. [IRC §108(a)(1)(E)]

Energy Credit

***TheTaxBook*™, page 14-4 of the 1040 Edition.** The Energy Credit under Section 48 is now allowed to offset the Alternative Minimum Tax. The Energy Credit is based on the cost of qualified energy property put in service during the year, such as solar energy used to generate electricity.

Residential Energy Efficient Property Credit

***TheTaxBook*™, page 11-11 of the 1040 Edition.** The credit under Section 25D is extended through December 31, 2016. Beginning with tax year 2009, there is no longer a maximum credit allowed per year for the cost of qualified solar energy electric generating property.

Residential wind property. Beginning with tax year 2008, the residential energy efficient property credit includes 30% of the cost of qualified small wind energy property expenditures made by the taxpayer during the year. The maximum credit allowed per year is $500 for the cost of each half kilowatt of capacity (not to exceed $4,000) of wind turbines for which qualified small wind energy property expenditures are made.

Geothermal heat pump systems. Beginning with tax year 2008, the residential energy efficient property credit includes 30% of the qualified geothermal heat pump property expenditures made by the taxpayer during the year. The maximum credit allowed per year is $2,000.

***TheTaxBook*™, page 14-4 of the 1040 Edition.** The residential energy efficient property credit under Section 25D is now allowed to offset the Alternative Minimum Tax.

Carbon Audit of the Tax Code

The Secretary of the Treasury is directed to enter into an agreement with the National Academy of Sciences to undertake a comprehensive review of the Internal Revenue Code of 1986 to identify the types of and specific tax provisions that have the largest effects on carbon and other greenhouse gas emissions and to estimate the magnitude of those effects. Congress has authorized $1,500,000 for the period of fiscal years 2009 and 2010 to do this comprehensive review.

Fuel Credits

***TheTaxBook*™, page SB9-7 of the Small Business Edition.** For credits claimed after May 15, 2008, the credit for alcohol used as fuel, and the biodiesel and renewable diesel fuels credit are not allowed with respect to any fuel produced outside the United States for use as fuel outside the United States.

Electric Vehicle Credit

IRC §30D. For tax years beginning after 2008 and for property purchased prior to 2015, a new qualified plug-in electric drive motor vehicle credit is allowed. The credit equals the sum of $2,500 plus $417 for each kilowatt hour of traction battery capacity in excess of 4 kilowatt hours for each new qualified plug-in electric drive motor vehicle placed in service by the taxpayer during the year.

Limitation based on weight. The credit allowed is limited to the following:

- $7,500 for a new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of not more than 10,000 pounds,
- $10,000 for a new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of more than 10,000 pounds but not more than 14,000 pounds,
- $12,500 for a new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of more than 14,000 pounds but not more then 26,000 pounds, and
- $15,000 for a new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of more than 26,000 pounds.

Credit phase-out. The credit will begin to phase-out beginning with the second calendar quarter following the calendar quarter in which 250,000 new qualified plug-in electric drive motor vehicles are sold. The phase-out percentage is 50% for the first two calendar quarters during the phase-out period, 25% for the third and fourth calendar quarters during the phase-out period, and 0% for each calendar quarter after.

New qualified plug-in electric drive motor vehicle. A new qualified plug-in electric drive motor vehicle is a motor vehicle:

- Which draws propulsion using a traction battery with at least 4 kilowatt hours of capacity,
- Which uses an off board source of energy to recharge the battery,
- Which, in the case of a passenger vehicle or light truck which has a gross vehicle weight rating of not more than 8,500 pounds, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under Section 243(e)(2) of the Clean Air Act for that make and model year, and
  a) In the case of a vehicle having a gross vehicle weight rating of 6,000 pounds or less, the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, and
  b) In the case of a vehicle having a gross vehicle weight rating of more than 6,000 pounds but not more than 8,500 pounds, the Bin 8 Tier II emission standard which is so established,
- The original use of which commences with the taxpayer,
- Which is acquired for use or lease by the taxpayer and not for resale, and
- Which is made by a manufacturer.

The credit is treated as part of the general business credit under Section 38 for taxpayers purchasing a vehicle that is subject to depreciation. The credit is treated as a personal credit for all other taxpayers.

Alternative minimum tax (AMT). The credit is allowed to offset AMT.

Basis. The basis of the vehicle must be reduced by the amount of the credit allowed.

No double benefit. The amount of any deduction or other credit allowable for a new qualified plug-in electric drive motor vehicle is reduced by the amount of credit allowed under this provision.

Tax-exempt entities, governmental units, and foreign persons. If a new qualified plug-in electric drive motor vehicle is used by a tax-exempt organization, by a governmental unit, or a foreign person or entity, and the vehicle is not subject to a lease, the person who sold the vehicle to the person or entity using the vehicle is treated as the taxpayer that placed the vehicle in service. This rule only applies if the taxpayer clearly discloses to the person or entity using the vehicle in a document the amount of credit allowable with respect to the vehicle.

Recapture. The tax benefit of property that ceases to be property eligible for the credit must be recaptured.

Elect out. The taxpayer may elect not to take the credit for an eligible vehicle.

Alternative motor vehicle credit. Any vehicle that is allowed a credit under Section 30D is not taken into account for purposes of the alternative motor vehicle credit under Section 30B.

Percentage Depletion for Oil and Gas Wells

***TheTaxBook*™, page 9-21 of the 1040 Edition.** The percentage depletion allowance may not exceed 50% of the taxable income derived from the property (100% for oil and gas properties). In the case of oil and natural gas produced from marginal properties, the taxable income limitation on percentage depletion does not apply for any taxable year:

- Beginning after December 31, 1997, and before January 1, 2008, or
- Beginning after December 31, 2008, and before January 1, 2010.

Bicycle Commuters

***TheTaxBook*™, page 13-27 of the 1040 Edition, and page SB7-5 of the Small Business Edition.** Qualified transportation benefits provided to employees are excluded from taxable wages. Beginning in 2009, qualified transportation benefits include qualified bicycle commuting reimbursements. Any employer reimbursement during the 15-month period beginning with the first day of a calendar year for reasonable expenses incurred by the employee for the purchase of a bicycle and bicycle improvements, repair, and storage, are excluded from the employee's taxable income if the bicycle is regularly used for travel between the employee's residence and place of employment. The annual limitation on tax free reimbursements is $20 multiplied by the number of qualified bicycle commuting months during the year. A qualified bicycle commuting month is any month the employee regularly uses the bicycle for a substantial portion of the travel between the employee's residence and place of employment, and the employee does not

receive any other qualified transportation fringe benefit during the month for a commuter highway vehicle, transit pass, or qualified parking. [IRC §132(f)(1)(D)]

Nonbusiness Energy Property Credit

***TheTaxBook™*, page 11-11 of the 1040 Edition.** The nonbusiness energy property credit applied to improvements placed in service during 2006 and 2007. The provision has been extended for improvements placed in service during 2009 (but not 2008).

Energy-efficient building property. In addition to heat pumps, central air conditioners, and water heaters, the term energy-efficient building property also includes a stove which uses the burning of biomass fuel to heat a residence or water heater, and has a thermal efficiency rating of at least 75%.

Energy efficiency improvements. In addition to coated metal roofs meeting Energy Star requirements, the term energy efficiency improvement also includes an asphalt roof with appropriate cooling granules.

Reuse and Recycling Property

IRC §168(m). For property placed in service after August 31, 2008, a special 50% depreciation deduction is allowed for reuse and recycling property which is used exclusively to collect, distribute, or recycle qualified reuse and recyclable materials. Qualified reuse and recyclable materials means scrap plastic, scrap glass, scrap textiles, scrap rubber, scrap packaging, recovered fiber, scrap ferrous and nonferrous metals, or electronic scrap generated by an individual or business. This rule does not apply to any property eligible for bonus depreciation under Section 168(k).

Domestic Production Activities Deduction

***TheTaxBook™*, page 8-18 of the 1040 Edition.** Beginning in 2010, the deduction under Section 199(a) is reduced by 3% for taxpayers who have oil related qualified production activities income for the year. This rule applies to taxpayers with income attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product derived from oil or gas.

Qualified film. Beginning in tax year 2008, for purposes of the domestic production activities deduction, W-2 wages include compensation for services performed in the United States by actors, production personnel, directors, and producers involved in making a qualified film.

Qualified Restaurant Property

***TheTaxBook™*, page 9-20 of the 1040 Edition.** The 15-year straight-line depreciation method for qualified leasehold improvements and qualified restaurant property has been extended through the end of 2009.

New treatment for new construction of a restaurant. The definition of qualified restaurant property has changed for property placed in service in tax year 2009. The term qualified restaurant property means any section 1250 property which is:

- A building, if such building is placed in service after December 31, 2008, and before January 1, 2010, if more than 50% of the building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals, or
- An improvement to a building, if more than 50% of the building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.

The requirement that qualified restaurant property be placed in service more than 3 years after the date the building was first placed in service no longer applies. Thus, the construction of a new restaurant placed in service during 2009 qualifies for 15-year straight-line depreciation.

Special depreciation allowance. Qualified restaurant property placed in service during 2009 does not qualify for the 50% special depreciation allowance under Section 168(k).

Qualified Retail Space Improvement Property

IRC §168(e)(3)(E). For property placed in service after December 31, 2008, and before January 1, 2010, qualified retail improvement property is considered 15-year property for depreciation purposes. The term qualified retail improvement property means any improvement to an interior portion of a building which is nonresidential real property if:

- Such portion is open to the general public and is used in the retail trade or business of selling tangible personal property to the general public, and
- Such improvement is placed in service more than 3 years after the date the building was first placed in service.

Improvements made by owner. If an improvement is made by the owner, the improvement is treated as qualified retail improvement property only so long as the improvement is held by the owner. Exceptions to this rule apply in the case of death, a change in the form of conducting the trade or business, a like-kind exchange, or the tax-free transfer of the property to a corporation or partnership.

Improvement not included. Qualified retail improvement property does not include any improvement for which the expenditure is attributable to:

- The enlargement of the building,
- Any elevator or escalator,
- Any structural component benefiting a common area, or
- The internal structural framework of the building.

Special depreciation allowance. Qualified retail improvement property is not considered qualified property for purposes of the special depreciation allowance under Section 168(k).

Charitable Deductions for Contributions of Food Inventory

IRC §170(e)(3)(C). In general, a contribution of inventory by a business to a charitable organization is limited to the FMV of the inventory, reduced by the amount that would be ordinary income if the property were sold at FMV. Thus the contribution deduction of inventory is generally equal to the basis in the property. Special rules apply for contributions of inventory to certain organizations. For example, a corporation that contributes inventory to an organization solely for the care of the ill, the needy, or infants, reduces the FMV of the property by 50% of the amount that would have been ordinary income if sold at FMV (as opposed to 100% of the amount that would have been ordinary income), limited to twice the corporation's basis in the property contributed. In the case of a charitable contribution of food inventory from any business (not just a corporation), the same 50% rule may apply. This provision was set to expire after December 31, 2007. The new law extends this provision through December 31, 2009.

Qualified farmer or rancher. The AGI limitation on a charitable contribution is temporarily suspended in the case of a qualified farmer or rancher who contributes food to a qualified charity. The limitation does not apply if the contribution is made during the period beginning October 3, 2008 and before January 1, 2009. [IRC §170(b)(3)]

Wooden Arrows Used By Children Exempt From Excise Tax

IRC §4161(b)(2). The sale of sport fishing equipment and bows and arrows by the manufacturer, producer, or importer is subject to an excise tax under Section 4161. An exception to the excise tax now applies to sales after October 3, 2008 of certain wooden arrows that measure 5/16th of an inch or less in diameter.

Income Averaging For Amounts Received In Connection With the Exxon Valdez Litigation

***TheTaxBook*™, page 5-27 of the 1040 Edition.** Farmers and fishermen are allowed to use income averaging to reduce tax. Taxpayers who receive a qualified settlement from the Exxon Valdez litigation are treated as fishermen under Section 1301 for purposes of income averaging without regard to the actual commercial nature of their business. In addition, the settlement income is considered qualified income for purposes of making a contribution to an eligible retirement plan.

Federally Declared Disaster Area Casualty Loss Deduction

For an IRS listing of federally declared disaster areas, go to the following website and click on the applicable state link:

http://www.irs.gov/newsroom/article/0,,id=98936,00.html

***TheTaxBook™*, page 4-20 of the 1040 Edition.** Beginning in 2008, new rules apply to federally declared disaster areas. The 10% of AGI limitation for casualty losses under Section 165(h) does not apply to the portion of loss due to a net disaster loss. A net disaster loss means the excess of the casualty losses attributable to a federally declared disaster occurring before January 1, 2010 in a disaster area over personal casualty gains.

Federal declared disaster area. The term federal declared disaster area replaces the term Presidentially declared disaster area in a number of code sections. A federal declared disaster area means any disaster subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Taxpayers who do not itemize. If a taxpayer does not itemize deductions, the standard deduction for 2008 and 2009 is increased by the disaster loss deduction.

Alternative minimum tax. The standard deduction is generally added back for purposes of computing the AMT. Under the new law, the portion of the standard deduction that is increased due to the disaster loss deduction is not added back for AMT purposes.

$100 limitation per casualty. The $100 per casualty limitation is increased to $500 per casualty for tax year 2009 (but not for 2008). It goes back to $100 for 2010. This rule applies to all casualty and theft losses, including those losses that are not due to a federally declared disaster area (except for those disaster areas with special rules such as the Midwestern disaster area).

Expensing of Qualified Disaster Expenses

New Code Section 198A. Beginning in 2008, a taxpayer may elect to treat any qualified disaster expenses which are paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expense elected under this code section will be allowed as a deduction for the taxable year in which it is paid or incurred.

Qualified disaster expense. The term qualified disaster expense means any expenditure:

- Which is paid or incurred in connection with a trade or business or with business-related property,
- Which is:
    a) For the abatement or control of hazardous substances that were released on account of a federally declared disaster occurring before January 1, 2010,

b) For the removal of debris from, or the demolition of structures on, real property which is business-related property damaged or destroyed as a result of a federally declared disaster occurring before such date, or
c) For the repair of business-related property damaged as a result of a federally declared disaster occurring before such date, and

- Which is otherwise chargeable to capital account.

Business-related property. The term business-related property means property:

- Held by the taxpayer for use in a trade or business or for the production of income, or
- Described in section 1221(a)(1) in the hands of the taxpayer (a capital asset).

Section 198A deduction recaptured as ordinary income upon sale. Solely for purposes of Section 1245, in the case of property to which a qualified disaster expense would have been capitalized without this rule:

- The deduction allowed under Section 198A is treated as a deduction for depreciation, and
- The property (if not otherwise Section 1245 property) shall be treated as Section 1245 property solely for purposes of applying Section 1245 to the deduction under Section 198A.

Net Operating Losses Attributable to Federally Declared Disasters

***TheTaxBook*™, page 8-2 and 8-15 of the 1040 Edition.** Beginning in 2008, the 3-year carry back rule for NOLs occurring as a result of a federally declared disaster is increased to 5 years. For purposes of this rule, the term qualified disaster loss means the lesser of:

- The sum of:
  i) The losses allowable as a casualty loss for the taxable year attributable to a federally declared disaster occurring before January 1, 2010 in a disaster area, and
  ii) The deduction for the taxable year for qualified disaster expenses which is allowable under Section 198A(a) or which would be allowable if not otherwise treated as an expense, or
- The net operating loss for such taxable year.

Election. Any taxpayer entitled to a 5-year carryback under this rule from any loss year may elect to instead use the 2-year carryback period. The election must be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss. The election, once made, is irrevocable.

Exclusion. The term qualified disaster loss does not include any loss with respect to any property used in connection with any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, any store the principal business of which

is the sale of alcoholic beverages for consumption off premises, or any gambling or animal racing property.

Alternative minimum tax. A loss deduction allowed under these rules will also allowed to offset AMT.

Special Depreciation Allowance and Increased Section 179 Expense for Qualified Disaster Assistance Property

***TheTaxBook*™, pages 9-16 and 9-17 of the 1040 Edition, and pages SB5-16 and SB5-17 of the Small Business Edition.** Under the *Heartland, Habitat, Harvest, and Horticulture Act of 2008,* tax relief provisions were extended to taxpayers who suffered casualty losses resulting from tornados on May 4th, 5th, and 6th, 2007, in Greensburg, Kansas and surrounding communities. These tax provisions included 50% bonus depreciation on qualified property, and an increase in the allowable Section 179 expense deduction. The provisions were similar to those from *The Gulf Opportunity Zone Act of 2005,* which provided tax assistance for Hurricanes Katrina, Rita, and Wilma disaster areas.

Beginning in 2008, the new law implements a 50% special depreciation allowance for qualified disaster property in a federally declared disaster area, and increases the Section 179 expense for qualified disaster assistance property in a federally declared disaster area. These provisions are intended to provide relief for victims of Midwest storms, tornados, flooding, as well as victims of Hurricane Ike. They also apply to all other areas declared by the President to be a federal disaster area before January 1, 2010.

Special depreciation allowance. A special depreciation allowance equal to 50% of the adjusted basis of qualified disaster assistance property is allowed for the year placed in service. Qualified disaster assistance property is original-use property, acquired by purchase, used in the active conduct of a trade or business. The provision applies to property placed in service after December 31, 2007, with respect to disasters declared after that date. Substantially all of the use of the property must be in a disaster area with respect to a federally declared disaster occurring before January 1, 2010. Qualified property must rehabilitate property damaged, or replace property destroyed or condemned, as a result of a federally declared disaster. The property must be similar in nature to, and located in the same county as, the property being rehabilitated or replaced. Qualified property must be placed in service on or before the end of the third calendar year following the disaster date (fourth calendar year for nonresidential real property and residential rental property).

The following property may qualify as qualified disaster assistance property.

- Property with a MACRS recovery period of 20 years or less.
- Computer software that is readily available for purchase by the general public, is subject to a nonexclusive license, and has not been substantially modified.
- Qualified leasehold improvement property

- Nonresidential real property or residential rental property.
- Water utility property.

Exceptions. Qualified disaster assistance property does not include property to which other bonus depreciation provisions apply, such as GO Zone or Kansas disaster area property, or property required to be depreciated under the alternative depreciation system (ADS).

Election out. The taxpayer can make an election not to have the provisions apply to qualified property.

Alternative minimum tax (AMT). The special depreciation allowance is deductible for purposes of computing AMT.

Increased Section 179 expense. Qualified Section 179 disaster assistance property has the same definition as that for the special depreciation allowance, as shown above.

The maximum Section 179 deduction for qualified disaster assistance property is increased by $100,000, from $250,000 to $350,000 for 2008.

The investment limit for Section 179 qualified disaster assistance property is increased by $600,000, from $800,000 to $1,400,000 for 2008.

If the taxpayer elects the Section 179 deduction for qualified disaster assistance property, the property will not be treated as qualified zone property or qualified renewal property for purposes of Empowerment Zones or Renewal Communities under IRC sections 1397A and 1400J.

Midwestern Disaster Area Relief

In addition to the new tax provisions that apply to federally declared disaster areas, many of the other tax provisions that applied under the *Gulf Opportunity Zone Act of 2005* and the *Katrina Emergency Tax Relief Act of 2005* apply to any Midwestern disaster area. The Midwestern disaster area refers to any major federally declared disaster area on or after May 20, 2008, and before August 1, 2008 by reason of severe storms, tornados, or flooding occurring in any of the Sates of Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, and Wisconsin.

Casualty loss limitations suspended. The 10% AGI limitation and the $100 per casualty reduction does not apply to casualty losses in the Midwestern disaster area on or after the date of the disaster. In the case of any other losses, the casualty loss rules are applied without regard to the losses from the Midwestern disasters.

Temporary suspension of limitations on charitable contributions. Taxpayers can elect to not have the 50%, 30%, and 20% AGI limits for individuals, and the 10% of taxable income limit for C corporations apply to qualified charitable contributions. In place of

these limits, qualified contributions are allowed to the extent they do not exceed 100% of AGI (without regard to NOLs) for individuals, and 100% of taxable income for C corporations.

The reduction of itemized deductions for taxpayers with AGI over $159,950 ($79,975 MFS) does not apply to the portion of the itemized deductions attributable to qualified contributions paid during the year.

Qualified contributions refers to a charitable contribution paid during the period beginning on the date of the disaster and ending on December 31, 2008, and paid in cash to a charitable organization (other than a private foundation) for relief efforts in one or more Midwestern disaster areas. The taxpayer must obtain from the organization a contemporaneous written acknowledgement that the contribution was used (or is to be used) for relief efforts in one or more Midwestern disaster areas, and the taxpayer has elected the application of these rules to apply.

In the case of a partnership or S corporation, the election to apply these rules must be made by each partner or shareholder.

Increased standard mileage rate for charitable use of vehicles. The standard mileage rate for charitable use of a vehicle is set by Section 170(i) at 14¢ per mile. In the case of a vehicle used for charitable purposes in providing relief related to Midwestern disaster area, the standard mileage rate is 70% of the standard mileage rate in effect for business use of a vehicle, rounded to the next highest cent. For example, the business standard mileage rate on May 20, 2008 is 50.5¢ per mile. The Midwestern disaster area related charitable standard mileage rate on that date is 36¢ per mile. The business standard mileage rate on July 1, 2008 increased to 58.5¢ per mile. The Midwestern disaster area related charitable standard mileage rate on that date is 41¢ per mile. The increased standard mileage rate for Midwestern disaster area related chartable use begins on the date of the disaster and ends on December 31, 2008.

Mileage reimbursements to charitable volunteers. Gross income of an individual does not include amounts received from a charity as reimbursement for using the taxpayer's passenger automobile for the benefit of the charity in connection with providing relief relating to the Midwestern storms. The exclusion from income only applies to the extent that the expenses reimbursed would otherwise be deductible as business travel expenses using the standard business mileage rate at the time of such use as if the taxpayer were an employee of the charity. This rule does not apply with respect to expenses reimbursed in connection with the performance of services for compensation. If reimbursements for expenses are excluded from income, no double benefit is allowed by taking a corresponding charitable mileage deduction for the charitable use of the vehicle. This mileage reimbursement rule for charitable volunteers applies for the period beginning on the date of the disaster and ending on December 31, 2008.

Exemption for housing Midwestern disaster area displaced individuals. A taxpayer can claim an exemption deduction of $500 in 2008 or 2009 for each Midwestern disaster

area displaced individual to whom the taxpayer provides housing. The total exemption allowed for all displaced individuals housed in the taxpayer's home for both years is limited to $2,000. Each individual can be taken into account only once. For example, if a $500 exemption is claimed on an individual for 2008, no exemption is allowed by the taxpayer for that individual in 2009. However, this rule would not prevent another taxpayer from claiming an exemption in 2009 for housing that same individual in 2009.

A Midwestern disaster area displaced individual is defined as a person whose principal residence was in the disaster area, and the person is provided housing free of charge by the taxpayer in the taxpayer's principal residence for a period of 60 consecutive days which ends in tax year 2008 or 2009. A Midwestern disaster area displaced individual does not include the spouse or any dependent of the taxpayer.

The exemption is not allowed if the taxpayer receives any rent or other amount from any source in connection with the providing of housing for a Midwestern disaster area displaced individual.

Hope and Lifetime Learning credit. The Hope and Lifetime Learning Credits for students attending eligible educational institutions located in the Midwestern disaster area are increased. The Hope Credit for 2008 and 2009 is increased to 100% of the first $2,400 and 50% of the next $2,400 of qualified expenses. The Lifetime Learning Credit is increased to 40% of the first $10,000 of qualified expenses. (Page 12-2)

Demolition and clean-up costs. Taxpayers can deduct 50% of demolition and clean-up costs as an expense rather than as a capital cost. Demolition and clean-up costs are costs associated with the removal of debris or the demolition of structures on real property which is located in the disaster area, which is held by the taxpayer for use in a trade or business, for the production of income, or as a capital asset. This provision applies to costs incurred starting on the date of the disaster and ending on December 31, 2010. (Page 1-22)

Net operating loss. A net operating loss (NOL) due to the Midwestern disaster area can be carried back 5 years, as opposed to 2 years for a normal NOL. (Page 8-2)

The portion of the NOL that is a qualified Midwestern disaster area loss is the lesser of:

1) The excess of:
   a) The NOL for the year, over
   b) The specified liability loss for the year that qualifies for the 10-year carryback period, or
2) The total of the following to the extent taken into account in computing the NOL for the year:
   a) Any deduction for a qualified Midwestern disaster casualty loss.
   b) Any deduction for moving expenses after the date of the disaster, and before January 1, 2011 if the taxpayer's principal residence was located in the disaster area before the date of the disaster, the taxpayer was not able to remain in the residence due to the disaster, and the taxpayer's place of

employment after the moving expense is located in the Midwestern disaster area. Moving expenses used in computing a qualified Midwestern disaster loss may include moving costs to move back into the same residence if the initial vacating of the residence was caused by the disaster.

c) Expenses after the date of the disaster, and before January 1, 2011, to temporarily house an employee of the taxpayer whose principal place of employment is in the Midwestern disaster area.
d) A deduction for the 50% special depreciation allowance.
e) Deductions allowed for repair expenses, including expenses for removal of debris, paid or incurred after the date of the disaster, and before January 1, 2011, with respect to damages caused by the disaster to property located in the Midwestern disaster area.

Employer provided housing benefits. The following tax benefits apply if an employer furnishes housing located in the Midwestern disaster area to individuals affected by the disasters:

- An employee can exclude the value of employer provided housing benefits from income, including the benefit provided to the employee's spouse and dependents. The exclusion is limited to $600 for each month that lodging is furnished.
- An employer can claim a tax credit for housing employees affected by the Midwestern disasters. The credit equals 30% of amounts excludable from a qualified employee's gross income that are not otherwise excludable under Section 119.

Qualified distributions from retirement plans and IRAs. The following rules apply to qualified disaster recovery assistance distributions from retirement plans and IRAs on or after the date of the disaster and before January 1, 2010:

- Qualified distributions have a lifetime limit of $100,000 per individual.
- The 10% early withdrawal penalty under Section 72(t) does not apply.
- The mandatory 20% federal income tax withholding rules on distributions from qualified plans do not apply.
- The restriction on not allowing 401(k), 403(b) or 457 distributions until after separation from service, death, disability, or reaching age 59½ (70½ for 457 plans) does not apply.
- Taxpayers have up to 3 years to rollover funds into another qualified retirement plan or IRA to avoid tax on the distribution.
- A rollover is treated as if it is a trustee to trustee transfer, meaning the rules that limit rollovers to once per year do not apply.
- Unless the taxpayer elects otherwise, any taxable distribution (because it was not rolled over) is included in gross income ratably over the 3-taxable year period beginning with the year of distribution. For this purpose, the same rules that applied to 1998 Roth IRA conversions apply. For example, one of the rules required that if the individual dies during the income inclusion period, any remaining amounts are reported on the decedent's final return, unless the surviving spouse is the beneficiary.
- Special rules for mortgage revenue bonds apply.

Recontributions of withdrawals for home purchases. If a taxpayer had taken a qualified distribution from a retirement plan or IRA to purchase or construct a principal residence in a disaster area, but such plans were cancelled because of the disaster, then any amounts contributed back into a qualified retirement plan or IRA during the period beginning on the date of the disaster and ending March 3, 2009 are treated as tax free rollovers. The original qualified distribution to purchase or construct a principal residence must have been received during the period beginning 6 months before the date of the disaster and before the date which is the day after the disaster. The qualified distribution to purchase or construct a principal residence must have been made under one of the following:

1) A hardship distribution from a 401(k) plan,
2) A distribution from a 403(b) plan due to attaining age 59½, separation from service, death, disability or financial hardship, or
3) A distribution from an IRA for a first time home buyer. The same definition as the exception to the 10% early withdrawal penalty for a first time home buyer applies.

Loans from qualified plans. Under Section 72(p), qualified retirement plans can allow participants to borrow money from their plan, up to $50,000, if the loan is repaid within 5 years. IRAs do not allow participants to borrow from the account. A participant can borrow the lesser of:

- $50,000, or
- The greater of:
  1) $10,000, or
  2) 50% of the participant's nonforfeitable accrued benefit in the plan.

An individual whose principal residence was located in the Midwestern disaster area and who sustained an economic loss due to the disaster can borrow from his or her qualified retirement plan under the following terms:

- Maximum amount that can be borrowed is increased to $100,000.
- The maximum amount that can be borrowed is not subject to the 50% of the participant's nonforfeitable accrued benefit rule.
- The loan must be made sometime after the date of the disaster and ending on December 31, 2009 for purposes of this provision.

Special rules apply if a qualified individual described above had an outstanding loan from a qualified employer plan at the time of the disaster.

Employee retention credit for employers affected by the Midwestern disasters. An eligible employer is allowed a tax credit equal to 40% of the first $6,000 of qualified wages paid to an eligible employee under the Employee Retention Credit. An eligible employer is one who employed an average of not more than 200 employees on business days during the taxable year before the disaster date, and conducted an active trade or

business at the time of the disaster, and is inoperable after the date of the disaster and before January 1, 2009 as a result of damage sustained. An eligible employee is one whose principal place of employment during the disaster was with the employer in a disaster area.

For purposes of this credit, qualified wages means wages paid or incurred on any date after the date of the disaster and ending before January 1, 2009, which occurs during the period beginning on the date the trade or business first became inoperable at the location affected by the disaster, and ending on the date the trade or business resumes significant operations at that location. Qualified wages can include wages for which the employee performs no services, performs services at a different location, or performs services at the inoperable location before significant operations have resumed.

Cancellation of debt income exclusion. Cancellation of debt is not included in gross income if the person whose debt was cancelled had a principal residence located in the Midwestern disaster area during the disaster and suffered economic loss by reason of the disaster. This exclusion does not apply to debt cancelled in connection with a trade or business. The exclusion also does not apply if real property securing the debt is located outside of the disaster area. The cancellation of debt exclusion under this rule applies to debt discharged on or after the date of the disaster and before January 1, 2010.

Involuntary conversions. The replacement period for involuntary conversions is extended from 2 years to 5 years with respect to property in the Midwestern disaster area which is compulsorily or involuntarily converted by reason of the disasters. The 5-year replacement period only applies if substantially all of the use of the replacement property is in the disaster area.

Other provisions. Other tax provisions that applied to the Gulf Opportunity Zone disaster area also apply to any Midwestern disaster area:

- Tax-exempt bond treatment for bonds issued to help reconstruct real property and public utility property destroyed in the disaster area.
- Additional low-income housing credit dollar amount for property located in the disaster area. (Page 11-10)
- The ability to expense environmental remediation costs (as opposed to treating them as capital costs) in connection with a contaminated site located in the disaster area. (Page 8-7)
- An increase in the rehabilitation credit under Section 47(c) with respect to any qualified rehabilitated building or certified historic structure located in the disaster area. (Page SB9-5)
- The ability to take a tax credit for holders of tax credit bonds under Section 1400N(l).
- The special rules regarding treatment of representations regarding income eligibility for purposes of qualified residential rental project requirements under Section 142 (private activity bond rules).

Hurricane Ike Relief

In addition to the new tax provisions that apply to federally declared disaster areas, the following rules apply to the Hurricane Ike disaster area. The Hurricane Ike disaster area means an area in the State of Texas or Louisiana:

- With respect to which a major disaster has been declared by the President on September 13, 2008, and
- Determined by the President to warrant individual or individual and public assistance from the Federal Government with respect to damages attributable to Hurricane Ike.

Tax-exempt bond financing. In general, similar rules that applied to the Gulf Opportunity Zone in the case of tax-exempt bond financing under Section 1400N(a) apply to the Hurricane Ike disaster area. Certain exceptions apply.

Low-income housing credit. In general, similar rules that applied to the Gulf Opportunity Zone in the case of the increase in the low-income housing credit under Section 1400N(c) apply to the Hurricane Ike disaster area for tax years 2008, 2009, and 2010.

Nonqualified Deferred Compensation Plans

***TheTaxBook*™, page 13-21 of the 1040 Edition and page SB6-19 of the Small Business Edition.** Section 457 deferred compensation plans are generally only available to employees of state or local governments and tax-exempt organizations. Participants are not taxed on deferred compensation until amounts are distributed to the employees. For nonqualified plans of other organizations, participants may be able to defer tax on compensation if certain rules under Section 409A are met.

New code Section 457A. The following rules apply for amounts deferred for services performed after December 31, 2008.

Any compensation which is deferred under a nonqualified deferred compensation plan of a nonqualified entity shall be includible in gross income when there is no substantial risk of forfeiture of the rights to the compensation. The term nonqualified entity means:

- Any foreign corporation unless substantially all of its income is:
  a) Effectively connected with the conduct of a trade or business in the United States, or
  b) Subject to a comprehensive foreign income tax, and
- Any partnership unless substantially all of its income is allocated to persons other than:
  a) Foreign persons with respect to whom such income is not subject to a comprehensive foreign income tax, and
  b) Organizations which are exempt from tax.

Certain exceptions to these rules apply. For details on new code Section 457A, see Section 801 of Division C of H.R. 1424.

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