

TAX INCREASE PREVENTION ACT CARRYING AMT PATCH FOR 2007 PASSES

The "Tax Increase Prevention Act of 2007" (TIPA) provides for a one-year patch of the AMT for 2007 but does not offset the revenue cost of the measure with revenue raising provisions.

BOOSTED AMT EXEMPTION AMOUNTS

The alternative minimum tax (AMT) is the excess, if any, of the tentative minimum tax for the year over the regular tax for the year. In arriving at the tentative minimum tax, an individual begins with taxable income, modifies it with various adjustments and preferences, and then subtracts an exemption amount (which phases out at higher income levels). The result is alternative minimum taxable income (AMTI), which is subject to an AMT tax rate of 26% or 28%.

Under pre-TIPA law, an individual's AMT exemption amounts for 2007 (before the phaseout) were as follows: \$45,000 for married individuals filing jointly and surviving spouses; \$33,750 for unmarried individuals; and \$22,500 for married individuals filing separately. These pre-TIPA law exemption amounts were identical to the exemption amounts that were in effect for 2000, and were far lower than the AMT exemption amounts that were in effect for 2006.

New law. Under the TIPA, the AMT exemption amounts (before phaseout) for 2007 for individuals are:

- ✓ \$66,250 for married individuals filing jointly and surviving spouses (up from \$62,550 for 2006);
- ✓ \$44,350 for unmarried individuals (up from \$42,500 for 2006); and
- ✓ \$33,125 for married individuals filing separately (up from \$31,275 for 2006).

The TIPA does not tinker with the AMT phaseout rules. Thus, the AMT exemption amounts for individuals for 2007 are as follows:

- ✓ married individuals filing jointly and surviving spouses, \$66,250, less 25% of alternative minimum taxable income (AMTI) exceeding \$150,000 (zero exemption when AMTI is \$415,000);

- ✓ unmarried individuals, \$44,350, less 25% of AMTI exceeding \$112,500 (zero exemption when AMTI is \$289,900); and
- ✓ married individuals filing separately, \$33,125 less 25% of AMTI exceeding \$75,000 (zero exemption when AMTI is \$207,500), but AMTI of married individuals filing separately is increased by the lesser of \$33,125 or 25% of the excess of AMTI (without regard to the exemption reduction) over \$207,500.

This is a temporary fix only. Absent Congressional action, the AMT exemption amounts for individuals for 2008 will revert to the levels they were at for 2000.

Personal Nonrefundable Credits May Offset AMT and Regular Tax

Under pre-TIPA law, personal nonrefundable credits for 2007, other than the child credit, the adoption credit, and low income saver's credit, couldn't have exceeded the excess of regular tax liability over the tentative minimum tax (determined without regard to the alternative minimum foreign tax credit).

New law. Under the TIPA, for tax years beginning in 2007, the combined total of the following credits is limited to the sum of: (1) regular tax liability reduced by the foreign tax credit, and (2) the AMT:

- ... Code Sec. 21 dependent care credit;
- ... Code Sec. 22 credit for the elderly and permanently and totally disabled;
- ... Code Sec. 25 mortgage credit;
- ... Code Sec. 24 child tax credit;
- ... Code Sec. 25A Hope and Lifetime Learning credits;
- ... Code Sec. 23 adoption credit;
- ... Code Sec. 25B lower income saver's credit;
- ... Code Sec. 25C nonbusiness energy property credit for energy-efficient improvements to a principal residence;
- ... Code Sec. 25D residential energy efficient property credit for solar electric, solar hot water, and fuel cell property added to a residence; and
- ... Code Sec. 1400C first-time D.C. homebuyer credit.

In other words, under the TIPA, the sum of the above credits may offset both regular tax and AMT.

As with the AMT exemption amounts, the credit fix, namely allowing credits to offset AMT and regular tax, is temporary—it's just for 2007. Absent Congressional action, the rule for 2008 will be that most nonrefundable personal credits can't exceed the excess of regular tax liability over tentative minimum tax (determined without regard to the alternative minimum foreign tax credit).