



THE RACK LAW FIRM, P.C.
A PROFESSIONAL LAW CORPORATION

**Behind the Bailout Bill:
Tacking on Taxes, Too**

The news reports of late have been singing a swirling cacophony of events so bizarre that we cannot hear ourselves think. Billions in bailouts, mercurial gas prices, dramatic stock market swings and political punditry have drowned out reasonable voices asking for answers. It is an environment that creates incongruous legislation, and the so-called “Bailout Bill” is a textbook example.

The Emergency Economic Stabilization Act (Public Law 110-343), signed into law by President Bush on October 3, 2008, was originally drafted to include only the \$700 billion financial industry bailout plan. In order to enhance its chances of passing, the bill was revised to incorporate a series of stand-alone bills recently debated by Congress and the public. These amendments were tacked on to the Bailout Bill in a patchwork fashion, and while some favor the taxpayer, they emphasize the magnitude of the government outlays by granting income tax relief and increased deposit protection. Witness the following:

Alternative Minimum Tax Relief

The Alternative Minimum Tax (AMT) is a supplemental tax that certain taxpayers are required to pay in addition to their regular income tax. These regulations provide an alternate set of rules, in addition to the typical tax calculations, to determine taxable income and allowable deductions. Under the Act, the AMT exemption amounts (before phase out) for 2008 have increased as follows:

<u>Filing Status</u>	<u>2007</u>	<u>2008</u>
Married individuals filing jointly:	\$66,250	\$69,950
Surviving spouses:	\$66,250	\$69,950
Unmarried individuals:	\$44,350	\$46,200
Married individuals filing separately:	\$33,125	\$34,975

Unlike the standard income tax brackets, which are adjusted annually for inflation, the AMT brackets have not been indexed for inflation. This has resulted in “bracket creep,” whereby middle class taxpayers find that their increased income causes them to be subject to payment of additional income taxes. The 2008 exemption increases will offer protection to more taxpayers and reduce the number of Americans who receive the Spring Surprise that they are subject to alternative minimum tax.

Increase in FDIC Insurance

The Federal Deposit Insurance Corporation has temporarily increased the basic limit on federal deposit insurance coverage from \$100,000 to \$250,000 per depositor. This increase in coverage will remain in effect only through December 31, 2009, at which time the limit will revert to \$100,000.

According to our recent analysis of these regulations, this coverage limit applies to all deposit accounts held in one institution, which in turn is defined by the charter and branches of each institution. For example, Kermit's accounts at Being Green Bank, a depository institution, are insured separately from his deposit accounts held at separately chartered Miss Piggy Bank, allowing each account to insure up to \$250,000. Alternatively, if Kermit withdraws from Miss Piggy Bank and deposits his greenbacks at different branches of Being Green Bank, his funds are only insured up to \$250,000 cumulatively.

Extension for Nontaxable IRA Transfers to Eligible Charities

Taxpayers age 70½ who make qualified charitable distributions from their IRA can continue to take advantage of the \$100,000 (or \$100,000 per spouse for married individuals filing a joint return) annual exclusion amount through 2009. These otherwise taxable IRA distributions are not included in one's gross income, so the usual restrictions on charitable contribution percentage limits do not apply because they are not claimed as a deduction.

The distribution must be made by the trustee of the IRA directly to a §170(b)(1)(A) charitable organization, and must otherwise be entirely deductible as a charitable contribution. A direct distribution from the trustee of an IRA to a charity is not included in the taxpayer's gross income, yet, it is taken into account when determining the required minimum distribution (RMD) for the year (significant for those wishing to defer this income).

Taxpayers must be sure to review and renew their IRA beneficiary designations for any amounts not transferred to qualified charities to ensure that those earnings follow one's estate plan at death. Under prior law, this opportunity would have expired after 2007, but the Act extends this exclusion through 2009.

Extended Tax Incentives

In addition, many tax breaks which were scheduled to expire between 2007 have been extended through 2009. For example, the following tax incentives have been retroactively revived for 2008 and extended through 2009:

- Election to deduct state and local general sales tax
- Above the line deduction for higher education expenses
- Above the line deduction for educator expenses
- Research credit for businesses
- Fifteen year write-off for qualified leasehold and restaurant property improvements for businesses
- Deductions for certain charitable contributions by businesses

Summary and Recommendations

As the consequences of the Bailout Bill and other legislation continue to be revealed, the need to review your estate planning arrangements becomes clearer as well. Review all of your primary and contingent beneficiary designations on life insurance policies and retirement plans to ensure that your planning is current and accurate. If you have sizable certificates of deposit or money market savings accounts, look at the totals to determine whether the temporary FDIC limits apply to you. Finally, if you are eligible for the non-taxable IRA transfer to charity, consider taking advantage of the extension. We welcome your call to assist you or your clients in determining whether you or your family can take advantage of the chaos and confusion reigning supreme in Washington, D.C. while it lasts.