

2011 IRS Tax Law Updates

IRS Texas – New Mexico

Regional Practitioner Meeting 2011

Stakeholder Liaison, Field



May - July 2011

Small Business Health Care Tax Credit

Eligibility Rules

- Providing health care coverage
- Firm size
- Average annual wage
- Taxable (for profit) and tax-exempt firms qualify

Amount of Credit

- Maximum Amount
- Phase-out

Claimed on Form 8941



Increase in the Adoption Credit

- Increases to \$13,170 per child
- Refundable
 - Includes carry-forwards from 2009
- Credit is based on reasonable and necessary expenses
 - Adoption fees
 - Court costs
 - Attorney's fees
 - Travel expenses
- Requires filing Form 8839 and required adoption-related documentation with Form 1040
 - Cannot be filed electronically



Tax-free Insurance Coverage for Older Children

- Tax-free coverage can be extended immediately
- Applies to employees' children under age 27
- Workplace and retiree plans are eligible
 - Also includes individuals eligible for the self-employed federal health insurance deduction on their return
- Employers may permit employees to begin making pre-tax contributions under a cafeteria plan extending this coverage
 - Employers have until the end of 2010 to amend their cafeteria plan language to incorporate this change



New Rules for Purchases with FSAs, HSAs, and Other Workplace Health Plans

Limits on Over-the-Counter Medicines

- Prescription required for drugs and medicines except insulin
 - To qualify as a reimbursable expense for FSAs and Health Reimbursement Arrangements
 - To qualify as a tax-free distribution from a Health Savings Account (HSA) or an Archer Medical Savings Account (MSA)
 - Effective for purchases beginning on January 1, 2011
- Additional Taxes on Non-Qualified Medical Expenses
 - Tax percentage on HSAs/MSAs increases as of January 1, 2011
 - Does not apply to individuals who are disabled or over age 65



W-2 Reporting on Employer-Provided Insurance Coverage

- Optional for Tax Year 2011
- Form W-2 for 2011 available for employers to report the value of coverage provided to employees on Form W-2
- Reporting is for information only
 - Employer contribution remains excluded from income
 - Value of employer contribution is not taxable



Elimination of FTD Coupons

- Regulation 153340-09
- Deposit alternative
 - The Electronic Federal Tax Payment System (EFTPS)
 - Federal Tax Application (same-day wire transfer) for taxpayers with a U.S. bank account
 - Payment with return if the payment falls at or below the de minimus amount prescribed for the particular return



Small Business Jobs Act of 2010 Tax Provisions



Section 2011

Temporary exclusion of 100% of gain on certain small business stock

- Expands on Internal Revenue Code Section 1202 & the American Recovery and Reinvestment Act of 2009
- In order to claim the capital gain exclusion, the qualified small business stock must be:
 - Acquired after Sept. 27, 2010 and before Jan. 1, 2011 (Tax Relief Act of 2010 has extended the exclusion to qualified small business stock acquired before Jan 1, 2012), and
 - Held for more than five years before being sold.
- Earliest tax year this can be claimed is **2015**.



Section 2012

General business credits of eligible small businesses for 2010

- The new law allows an eligible small business to carry back general business credits **5** years.
- The carry back is for credits determined in the first taxable year beginning after December 31, 2009.

Section 2013

General business credits of eligible small businesses in 2010 not subject to alternative minimum tax

- General business credits offset both regular income tax and alternative minimum tax of eligible small businesses.
- Effective in the first taxable year beginning after December 31, 2009, and to any carry back of such credits.
- See [business tax credits](#) for the forms used to compute each credit.

Section 2014

Temporary Reduction in S-Corporation Built-in Gain Recognition Period

- Temporarily amends IRC Section 1374, *Tax Imposed on Certain Built-in Gains*.
- Applies to an S Corporation that converted from a C Corporation less than ten years prior to the tax year beginning in 2011.
- SBJ reduced the tax rate to zero for tax year 2011 where the fifth (5th) taxable year in the holding period precedes the taxable year beginning in 2011.
- Form 1120S Schedule D, *Capital Gains and Losses and Built-in Gains*.

Section 2014 (Cont.)

S corporation Assets to which IRC 1374 and SBJA 2014 applies,

- Asset acquired prior to conversion from a C corporation, and
- Assets acquired from a C Corporation with a carryover basis (a transferred-basis acquisition)

Section 2021

Increased expensing limitations for 2010 & 2011; certain real property treated as Code Section 179 property

- Section 179 Election: recover all or part of the cost of certain qualifying property, up to a limit, by deducting it in the year the property is placed in service. (can be made instead of recovering the cost by taking depreciation deductions.)
- For tax years 2010 and 2011,
 - the *total* amount business taxpayers can elect to deduct for *most* property placed in service is \$500,000.
 - definition of property qualifying for section 179 is **expanded** to include the following real property:
 - Qualified leasehold improvement property
 - Qualified restaurant property
 - Qualified retail improvement property
- Form 4562, *Depreciation & Amortization*



Section 2022

Additional first-year depreciation for 50% of the basis of certain qualified property

- Taxpayers generally recover the cost or basis of capital expenditures over time through depreciation deductions.
- Taxpayers were permitted a special bonus depreciation deduction of 50% of qualifying property placed in service during the year
- 2022 **extends** the first-year bonus depreciation deduction of 50% to include qualified property acquired and placed in service **during 2010**.
- The Tax Relief Act of 2010 *expands* the bonus depreciation deduction to equal 100 percent of the cost of qualified property placed in service after September 8, 2010, and before January 1, 2012, and provides for a 50 percent first-year depreciation deduction for qualified property placed in service after December 31, 2011 and before January 1, 2013.
- Form 4562, *Depreciation & Amortization*



Section 2031

Increase in amount allowed as deduction for start-up expenditures in 2010

- Increases the amount allowed as a deduction for start-up expenditures in 2010, for any taxpayer who starts a business and elects to apply IRC 195(b) after Dec. 31, 2009.
- **For tax year 2010**, the *total* amount a taxpayer can deduct for start-up costs is \$10,000.
- Dollar for Dollar reduction, if start-up expenditures exceed \$60,000
- Claimed as:
 - “Other Deduction” on business returns, such as Forms 1120, 1120S, and 1065; or,
 - “Other Expense” on Form 1040 related Schedules C or F.



Section 2042:

Deduction for health insurance costs in computing net earnings from self-employment

- Applies to the 2010 tax year *only*.
- Business owners may deduct the cost of health insurance for themselves and their family in the calculation of net earnings from self-employment.
- Use Form 1040, Schedule SE to calculate, then deduction is claimed on Form 1040, Line 29.

Section 2042 (Cont.)

Limits:

- Allowable, if the insurance plan is established under the taxpayers business and one of the following is true:
 - Taxpayer was self-employed and had a net profit for the year.
 - Taxpayer received wages from an S corporation in which they were more than a 2% shareholder.
- Not allowable if the taxpayer is eligible to participate in an employer-subsidized health plan maintained by their employer or their spouse's employer.

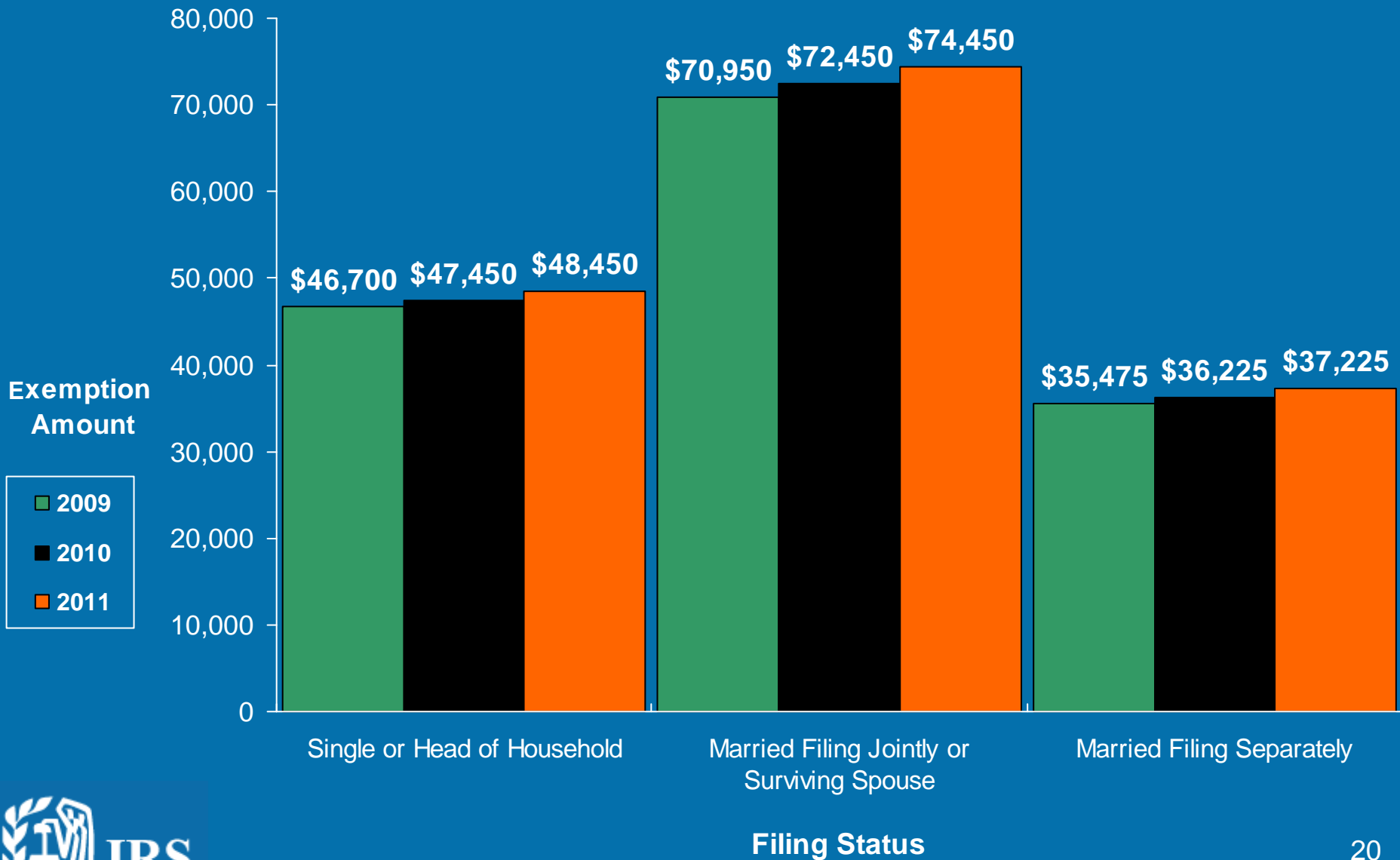


Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010

Signed into law on 12/17/2010, the Act provides a temporary, two-year extension to the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) and the Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA), together known as the “Bush tax cuts”.



AMT Exemption Amount



Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010: Information Center

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Taxpayers will see a variety of benefits impacting several different tax years under new legislation signed into law on Dec. 17, 2010. These include:

- A Two Percent Employee Payroll Tax Cut — The legislation includes an employee-side payroll tax cut for over 155 million workers, providing [tax relief](#) of about \$112 billion in 2011 paychecks.
- Extension of Unemployment Benefits — The legislation extends emergency unemployment benefits at their current level for 13 months, preventing an estimated 7 million workers from losing their benefits over the next year as they search for jobs.
- The Child Tax Credit — The \$3,000 refundability threshold established in the Recovery Act for the Child Tax Credit will be extended, ensuring an ongoing tax cut to 10.5 million lower-income families with 18 million children.
- The Earned Income Tax Credit — The legislation continues a Recovery Act expansion of the Earned Income Tax Credit worth, on average, \$600 for families with 3 or more children, and reduces the "marriage penalty" faced by working married families. Together, these enhancements to the EITC will help 6.5 million working families with 15 million children.
- The American Opportunity Tax Credit — The new American Opportunity Tax Credit — a partially refundable tax credit worth up to \$2,500 per student per year that helps more than 8 million students and their families afford the cost of college — is continued.
- 100 Percent Expensing — The legislation temporarily allow businesses to expense 100 percent of certain investments in 2011, potentially generating more than \$50 billion in additional investment in 2011, which will fuel job creation.
- 1603 Renewable Energy Grants — The agreement extends the 1603 program, which provides payments in lieu of renewable energy tax credits and is helping to support tens of thousands of jobs in the wind and solar industries.

For More Information

High-level [descriptions of the provisions](#) are available through the U.S. Senate Committee on Finance.

A [technical explanation](#) of the revenue provisions is available from the Joint Committee on Taxation.

What's New - Estate and Gift Tax

Small Business/Self-Employed

- [Industries/Professions](#)
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Form 706 Changes

The unified credit equivalent is \$1,500,000 (2004 - 2005), \$2,000,000 (2006 - 2008), \$3,500,000 (2009) and increases to \$5,000,000 for decedents dying on or after December 31, 2009 and before January 1, 2013.

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For Estate Tax returns after 12/31/1976, Line 4 of [Form 706, United States Estate \(and Generation-Skipping Transfer\) Tax Return](#), lists the cumulative amount of adjusted taxable gifts within the meaning of IRC section 2503. The computation of gift tax payable (Line 7 of Form 706) uses the IRC section 2001(c) rate schedule in effect as of the date of the decedent's death, rather than the actual amount of gift taxes paid with respect to the gifts.

With the top bracket tax rates decreasing from 55 percent (in 2001) down to 35 percent (in 2010) and a periodic drop in rates in-between, the IRS has encountered situations where gift taxes paid were greater than the tax calculated using the rate in effect at the date of death.

It appears that some Form 706 software used by practitioners require a manual input of the gift tax payable line. Some preparers are reporting gift taxes actually paid rather than calculating the gift tax payable under date of death rates. These errors result in underpayment of estate tax due. Cases with this issue will involve estates where large gifts were made during life and at a time when tax rates were higher than at date of death. (Posted 6-5-06)

Exclusions

- The annual exclusion for gifts is \$11,000 (2004 - 2005), \$12,000 (2006 - 2008), \$13,000 (2009 - present).
- The applicable exclusion amount is increased to \$5,000,000 for estates of decedents dying on or after December 31, 2009.
- The applicable exclusion amount for gifts made after December 31, 2009 is \$1,000,000. For gifts made after December 31, 2010, the applicable exclusion amount is increased to \$5,000,000.

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Resources

- IRS.gov
- Small Business Jobs Act on IRS.gov:

Other non-IRS resources

Library of Congress: <http://thomas.loc.gov/>

US Senate Finance Committee HR 5297:

<http://finance.senate.gov/legislation/details/?id=da799068-5056-a032-5229-92ceb2b7a0>

