



Housing Assistance Tax Act of 2008 [H. R. 3221]

On July 30, 2008, President Bush signed into law the *Housing Assistance Act of 2008*. The *Housing Act* includes tax breaks for taxpayers such as a refundable credit for first-time homebuyers and a new state and local property tax deduction for non-itemizers in 2008. Also included in the new law are liberalized low-income housing tax credit rules, most of which are not summarized here. Other provisions include relaxed tax-exempt bond requirements, additional GO Zone provisions, eased AMT rules, and tax breaks for businesses that include an election to accelerate AMT and research credits instead of bonus depreciation. The cost to taxpayers for the changes contained in this bill are offset with new rules requiring information reporting of payment card and third party network transactions and reworked 2012 and 2013 estimated tax rules for large corporations.

Homeowner Provisions	
Property Tax Deduction	<p>For 2008, a “real property tax deduction” is added to the components of the standard deduction. In addition to the standard deduction allowed to nonitemizers, taxpayers are allowed to deduct an additional amount for age and blindness and for state and local real property taxes.</p> <p>The additional deduction is limited to a maximum of \$500 (\$1,000 for taxpayers filing jointly).</p> <p>NOTE: The new law does not appear to allow a standard</p>

	<p>deduction for foreign real property taxes, although taxpayers who itemize their deductions are allowed to include foreign real property taxes.</p> <p>Effective for the 2008 tax year only.</p>
<p>Refundable Credit for First-time Homebuyers</p>	<p>First-time homebuyers are allowed a refundable tax credit of the purchase of a principal residence equal to the lesser of \$7,500 or 10% of the home's purchase price. For married individuals filing separately, the maximum credit is \$3,750.</p> <p>The credit is phased out for taxpayers with modified AGI between \$75,000 and \$95,000 (\$150,000 and \$170,000 for joint filers).</p> <p>A "first-time homebuyer" is an individual who had no present ownership interest in a principal residence during the three-year period ending on the date of the purchase of the principal residence to which the credit applies. If the individual is married, neither the individual nor his spouse may have had a present ownership interest in a principal residence during that three-year period.</p> <p>Taxpayers who claim a first-time homebuyer credit are subject to recapture equal to an increase in tax for each of the subsequent 15 years beginning with the second year of ownership. The recapture is equal to 6 2/3% of the amount of the credit for each tax year in the recapture period. A taxpayer who is liable for the recapture tax for a tax year must file an income tax return for that year, even if not otherwise required to file.</p> <p>Taxpayers who purchase a residence after December 31, 2008, and before July 1, 2009, may elect to treat the</p>

	<p>purchase as made on December 31, 2008.</p> <p>Making this election allows taxpayers to claim the credit on their 2008 tax returns. Taxpayers may amend their returns for this purpose. The election also establishes the beginning of the recapture period.</p> <p>Effective for principal residences purchased by the taxpayer after April 8, 2008, in tax years ending after that date, regardless of whether there was a binding contract to purchase before April 9, 2008.</p> <p>The credit won't be allowed for principal residences purchased by the taxpayer after June 30, 2009.</p>
<p>Grant Received in a Later Year Can Reduce Casualty Loss Deduction</p>	<p>Homeowners who suffered casualty losses to their principal residences due to Hurricanes Katrina, Wilma, and Rita may have received government grants under PL 109-148, 12/30/2005 , PL 109-234, 6/15/2006 , or PL 110-116, 11/13/2007 as reimbursement for that loss (e.g. reimbursements under the Road Home grant program).</p> <p>In general, when a taxpayer receives reimbursement for the loss in a later tax year, the deductible loss is not recomputed for the tax year in which the deduction was taken, instead the reimbursement amount is taken into income in the tax year it is received.</p> <p>The <i>Housing Act</i> allows taxpayers to elect to file an amended return for the tax year in which the loss deduction was allowed (and for any tax year to which the deduction is carried) and reduce the deduction (but not below zero) by the amount of the reimbursement.</p> <p>The election to file an amended return applies with respect to any grant only if any amended income tax</p>

	<p>returns with respect to that grant are filed <i>not later than the later of</i>:</p> <ul style="list-style-type: none"> • The due date for filing the tax return for the tax year in which the taxpayer receives the grant, or • The date which is one year after July 30, 2008. <p>Any underpayment of tax resulting from the reduction of the amount otherwise allowable as a casualty loss deduction is not subject to any penalty or interest if the tax is paid not later than one year after the filing of the amended return to which the reduction relates.</p> <p>Effective on July 30, 2008.</p>
<p>Gain Attributed to Nonqualified Use of a Home is Not Excludable</p>	<p>Currently, taxpayers are allowed to exclude up to \$250,000 (\$500,000 on a joint return) of gain from the sale of their principal residence. Generally, taxpayers must own and occupy the residence for at least two of the five years preceding the date of sale. A reduced exclusion is permitted for taxpayers who meet certain unforeseen circumstances.</p> <p>Under the new law, taxpayers will not be allowed to exclude any gain attributable to a nonqualified use. This will prevent taxpayers from selling a second home and excluding all the gain even if they meet the two-out-of-five years ownership and use tests.</p> <p>For purposes of determining the amount of gain that is allocated to periods of nonqualified use, gain will be allocated based on the ratio which:</p> <ul style="list-style-type: none"> • The aggregate periods of nonqualified use during the period the property was owned by the taxpayer, bears to

	<ul style="list-style-type: none"> • The period the property was owned by the taxpayer. <p>The amount of gain allocated to periods of nonqualified use is the total amount of gain multiplied by a fraction (1) the numerator of which is the aggregate periods of nonqualified use during the period the property was owned by the taxpayer, and (2) the denominator of which is the period the taxpayer owned the property.</p> <p>A period of nonqualified use is any period after January 1, 2009, during which the property is not used as the principal residence of the taxpayer, the taxpayer's spouse, or former spouse.</p> <p>Since the definition of a period of nonqualified use doesn't include any period before January 1, 2009, a taxpayer can avoid this new rule if he moves into another residence he owns and makes it his principal residence before January 1, 2009.</p> <p>A period of nonqualified use does not include any portion of the five-year testing period which is after the last date that the property is used as the principal residence. Therefore, any period after the last date the property was used as the principal residence (regardless of use during that period) is not taken into account in determining periods of nonqualified use.</p> <p>Effective for sales and exchanges after December 31, 2008.</p>
Low Income Housing Credit	
Alternative Minimum Tax	<ul style="list-style-type: none"> • The low-income housing credit can offset AMT liability for buildings placed in service after 2007.

	<ul style="list-style-type: none"> • Interest on tax-exempt housing bonds isn't subject to AMT.
State Allocation	<p>Under current law, a low-income housing tax credit is allowable only if the owner of a qualified building receives a housing credit allocation from the state or local housing credit agency.</p> <p>The aggregate credit authority provided annually to each state for calendar years 2008 and 2009 is increased to \$2.20 per resident.</p>
Public Use	<p>To be eligible for the low-income housing tax credit, the residential units in a qualified low-income housing project must be available for use by the general public.</p> <p>The general public use requirement is amended by providing that a project does not fail to meet the general public use requirement solely because of occupancy restrictions or preferences that favor tenants:</p> <ul style="list-style-type: none"> • With special needs, • Who are members of a specified group under a federal program or state program or policy that supports housing for such a specified group, or • Who are involved in artistic or literary activities. <p>Effective for buildings placed in service before, on, or after July 30, 2008.</p>
Credit Card Reporting	
Financial Institution Reporting	<p>Banks and online networks will be required to report credit card sales to the IRS and participating merchants on returns for calendar years beginning after December</p>

	31, 2010.
Penalties	<p>Each payment settlement entity will have to make a return relating to reportable payment transactions (payment card transactions and third party network transactions) for each calendar year. It also provides that each payment settlement entity will have to provide a statement to each participating payee (generally a merchant) showing the total amount of credit card sales made by that merchant.</p> <p>Failure to provide the required statements is subject to penalties under Sec. 6721 (\$50 per return) and Sec. 6722 (\$50 per return).</p> <p>Effective for returns for calendar years beginning after December 31, 2010.</p>
Back-up Withholding	<p>Reportable payment transactions will be subject to back-up withholding beginning in 2012.</p> <p>A payor of any reportable payment must deduct and withhold 28% of that payment when a payee fails to furnish his correct taxpayer identification number (TIN) to the payor.</p> <p>Effective for amounts paid after December 31, 2011.</p>
Alternative Minimum Tax	
Corporations	<p>Corporations can elect to treat certain unused research and AMT credits as refundable in lieu of claiming bonus and accelerated depreciation for "eligible qualified property."</p> <p>The election is available for the first tax year of the</p>

	<p>taxpayer ending after March 31, 2008.</p> <p>Effective for tax years ending after March 31, 2008.</p>
Rehabilitation Credit	<p>The rehabilitation credit determined under Sec. 47 can offset the alternative minimum tax (AMT) liability for expenditures taken into account for periods after 2007.</p> <p>Effective for rehabilitation credits to the extent attributable to qualified rehabilitation expenditures properly taken into account for periods after December 31, 2007.</p>
Gulf Opportunity Zone	
Elimination of Construction Deadline	<p>Under prior law, for property manufactured, constructed or produced by the taxpayer, a requirement for being "qualified GO Zone property" was that the manufacture, construction or production must begin before January 1, 2008.</p> <p>The new law eliminates this deadline.</p> <p>Effective for property placed in service after December 31, 2007.</p>
Tax-Exempt Bond Eligibility	<p>For purposes of the Sec. 1400N(a) tax-exempt bond financing rules, two Alabama counties have been added to the counties and parishes already covered under the definition of the GO Zone for which bonds may be issued.</p> <p>The GO Zone now includes Colbert County, Alabama and Dallas County, Alabama. Thus, for purposes of GO Zone bonds only, the provision includes these two counties in Alabama for purposes of defining the Go Zone.</p>

	Effective for bonds issued after December 21, 2005, and before January 1, 2011, for tax years ending after August 27, 2005.
Housing & Mortgage Bond Provisions	
Mortgage Bonds	<p>Mortgage revenue bonds are tax-exempt, the interest on which is exempt from federal income tax. The net proceeds of the bonds are used to finance owner-occupied home purchases of qualified buyers.</p> <p>The mortgage bond rules for residences located in disaster areas are extended to apply to bonds issued after May 1, 2008 and before 2010.</p>
Additional Funding	<p>An additional \$11 billion of tax-exempt housing bonds is authorized for 2008. The bonds may also be used to refinance subprime mortgages.</p> <p>Effective for bonds issued after July 30, 2008.</p>
Federally-Guaranteed Bonds	<p>Currently under Sec. 149, tax exemption doesn't apply to a bond that is "federally guaranteed." Under prior law, municipal bonds that were guaranteed by federal home loan banks couldn't qualify as tax-exempt bonds unless the bonds were used to finance housing programs.</p> <p>Under the new law, bonds that are guaranteed by federal home loan banks are eligible for treatment as tax-exempt bonds.</p> <p>Effective for guarantees made after July 30, 2008, with respect to bonds issued after July 30, 2008, and before January 1, 2011.</p>
Miscellaneous Provisions	

<p>Rehabilitation Credit</p>	<p>Under current law, qualified rehabilitation expenditures did not include any expenditure in connection with the rehabilitation of a building which was allocable to the portion of the property which was (or might reasonably be expected to be) "tax-exempt use property." Under this rule, tax-exempt use property is nonresidential real property that is leased to a tax-exempt entity if the portion leased is more than 35% of the property.</p> <p>The new law increases from 35% to 50% the percentage of the property that may be leased to a tax-exempt entity in a disqualified lease without requiring allocation of rehabilitation expenditures under the rehabilitation credit.</p> <p>Effective for expenditures properly taken into account for periods after December 31, 2007.</p>
<p>Corporate Estimated Tax Payments</p>	<p>Estimated tax payment amounts due from corporations with assets of \$1 billion or more are decreased to 100% for installments due in July, August, or September of 2012, and increased to 117.75% for installments due in July, August, or September of 2013.</p>