Summary of the Middle Class Tax Cut Act of 2010

I. Permanent Middle Class Tax Relief

Two major bills enacting tax cuts for individuals expire at the end of 2010: the *Economic Growth and Tax Relief Reconciliation Act of 2001* (EGTRRA); and the *Jobs and Growth Tax Relief Reconciliation Act of 2003* (JGTRRA). The following package makes permanent several provisions from EGTRRA and JGTRRA that will provide important tax relief to middle class American families and small businesses.

Reductions in Individual Income Tax Rates

Permanently extend the 10% bracket. Under current law, the 10% individual income tax bracket expires at the end of 2010. Upon expiration, the lowest tax rate will be 15%. This proposal makes the 10% individual income tax bracket permanent. The proposal is effective for taxable years beginning after December 31, 2010.

Permanently extend the 25%, 28% and part of 33% brackets. Under current law, the 25%, 28%, and 33% individual income tax brackets expire at the end of 2010. Upon expiration, the rates become 28%, 31%, and 36% respectively. This proposal makes the 25% and 28% individual income tax brackets permanent. This proposal also makes the 33% individual income tax bracket permanent for taxpayers with adjusted gross income (AGI) at or below $200,000 for individuals and $250,000 for married couples filing jointly. The proposal is effective for taxable years beginning after December 31, 2010.

Permanently repeal the Personal Exemption Phase-out for certain taxpayers. Personal exemptions allow a certain amount per person to be exempt from tax. Due to the Personal Exemption Phase-out ("PEP"), the exemptions are phased out for taxpayers with AGI above a certain level. The EGTRRA repealed PEP for 2010. The proposal makes permanent the repeal of PEP for taxpayers with AGI at or below $200,000 for an individual and $250,000 for a married couple filing jointly. The proposal is effective for taxable years beginning after December 31, 2010.

Permanently repeal the itemized deduction limitation for certain taxpayers. Generally, taxpayers itemize deductions if the total deductions are more than the standard deduction amount. Since 1991, the amount of itemized deductions that a taxpayer may claim has been reduced, to the extent the taxpayer's AGI is above a certain amount. This limitation is generally known as the "Pease limitation." The EGTRRA repealed the Pease limitation on itemized deductions for 2010. The proposal makes permanent the repeal of the Pease limitation for taxpayers with AGI at or below $200,000 for an individual and $250,000 for a married couple filing jointly. The proposal is effective for taxable years beginning after December 31, 2010.

Capital Gains and Dividends

Permanently extend the capital gains and dividend rates for the middle-class. Under current law, the capital gains and dividend rates for taxpayers below the 25% bracket is equal to zero percent. For those in the 25% bracket and above, the capital gains and dividend rates are currently 15%. These rates expire at the end of 2010. Upon expiration, the rates for capital gains become 10% and 20%, respectively, and dividends are subject to the ordinary income rates. This proposal makes permanent the zero percent capital gains and dividend rates for taxpayers below the 25% tax bracket. This proposal also makes permanent the 15% capital gains and dividend rates for taxpayers in the 25, 28, and 33% tax brackets with AGI at or below $200,000 for individuals and $250,000 for married couples filing jointly. The proposal is effective for taxable years beginning after December 31, 2010.

Capital gains and dividend rates for high-income taxpayers. This proposal makes the dividends rate equal to the capital gains rate of 20% beginning January 1, 2011 for taxpayers with AGI above $200,000 for individuals and $250,000 for married couples filing jointly. The proposal is effective for taxable years beginning after December 31, 2010.

Child Tax Credit

Permanently extend the modified child tax credit. Generally, taxpayers with income below certain threshold amounts may claim the child tax credit to reduce federal income tax for each qualifying child under the age of 17. The EGTRRA increased the credit from $500 to $1,000. The EGTRRA also expanded refundability. The amount that may be claimed as a refund was 15% of earnings above $10,000. The *American Recovery and Reinvestment Act of 2009* provided that earnings above $3,000 would count towards refundability for 2009 and 2010. This proposal makes the current child tax credit permanent. The proposal is effective for taxable years beginning after December 31, 2010.

Marriage Penalty Relief

Permanently extend marriage penalty relief. The proposal makes permanent the marriage penalty relief for the standard deduction, the 15 percent bracket, and the EITC. The proposal is effective for taxable years beginning after December 31, 2010.

Incentives for Families and Children

Permanently extend the expanded dependent care credit. The dependent care credit allows a taxpayer a credit for an applicable percentage of child care expenses for children under 13 and disabled dependents. The EGTRRA increased the amount of eligible expenses from $2,400 for one child and $4,800 for two or more children to $3,000 and $6,000, respectively. The EGTRRA also increased the applicable percentage from 30 percent to 35 percent. The proposal makes the changes to the dependent care credit permanent. The proposal is effective for taxable years beginning after December 31, 2010.

Permanently extend the increased adoption tax credit and the adoption assistance programs exclusion. Taxpayers that adopt children can receive a tax credit for qualified adoption expenses. A taxpayer may also exclude from income adoption expenses paid by an employer. The EGTRRA increased the credit from $5,000 ($6,000 for a special needs child) to $10,000, and provided a $10,000 income exclusion for employer-assistance programs. The Patient Protection and Affordable Care Act of 2010 extended these benefits to 2011 and made the credit refundable. The proposal makes permanent the increased adoption credit amount and the exclusion for employer-assistance programs as enacted in EGTRRA. The proposal is effective for taxable years beginning after December 31, 2010.

Permanently extend the credit for employer expenses for child care assistance. The EGTRRA provided employers with a credit of up to $150,000 for acquiring, constructing, rehabilitating or expanding property which is used for a child care facility. The proposal makes this proposal permanent. The proposal is effective for taxable years beginning after December 31, 2010.

Earned Income Tax Credit (EITC).

Permanently extend third-child EITC. Under current law, working families with two or more children currently qualify for an earned income tax credit equal to 40% of the family's first $12,570 of earned income. The *American Recovery and Reinvestment Act* increased the earned income tax credit to 45% of the family's first $12,570 of earned income for families with three or more children and increased the beginning point of the phase-out range for all married couples filing a joint return (regardless of the number of children). This proposal makes permanent the *American Recovery and Reinvestment Act* provisions that increased the credit for families with three or more children and increased the phase-out range for all married couples filing a joint return. The proposal is effective for taxable years beginning after December 31, 2010.

II. Permanent Education Tax Relief

Education Incentives

Permanently extend expanded Coverdell Accounts. Coverdell Education Savings Accounts are tax-exempt savings accounts used to pay the higher education expenses of a designated beneficiary. The EGTRRA increased the annual contribution amount from $500 to $2,000 and expanded the definition of education expenses to include elementary and secondary school expenses. The proposal makes permanent the changes to Coverdell accounts. The proposal is effective January 1, 2011.

Permanently extend the expanded exclusion for employer-provided educational assistance. An employee may exclude from gross income up to $5,250 for income and employment tax purposes per year of employer-provided education assistance. Prior to 2001, this incentive was temporary and only applied to undergraduate courses. The EGTRRA expanded this provision to graduate education and extended the provision for undergraduate and graduate education to the end of 2010. The proposal makes permanent the changes to this provision. The proposal is effective January 1, 2011.

Permanently extend the expanded student loan interest deduction. Certain individuals who have paid interest on qualified education loans may claim an above-the-line deduction for such interest expenses up to $2,500. Prior to 2001, this benefit was only allowed for 60 months and phased-out for taxpayers with income between $40,000 and $55,000 ($60,000 and $75,000 for joint filers). The EGTRRA eliminated the 60 month rule and increased the income phase-out to $55,000 to $70,000 ($110,000 and $140,000 for joint filers). The proposal makes permanent the changes to this provision. The proposal is effective January 1, 2011.

Permanently extend the exclusion from income of amounts received under certain scholarship programs. Scholarships for qualified tuition and related expenses are excludible from income. Qualified tuition reductions for certain education provided to employees are also excluded. Generally, this exclusion does not apply to qualified scholarships or tuition reductions that represent payment for teaching, research, or other services. The National Health Service Corps Scholarship Program and the F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program provide education awards to participants on the condition that the participants perform certain services. The EGTRRA allowed the scholarship exclusion to apply to these programs. The proposal makes permanent the changes to this provision. The proposal is effective January 1, 2011.

Arbitrage rebate exception for school construction bonds. Under current law, issuers of tax-exempt bonds must rebate to the U.S. Treasury arbitrage (excess interest income) earned from the investment of tax-exempt bond proceeds in higher-yielding taxable securities. The calculation of excess interest income can be complex, and as a result, many governments incur large costs to comply with the requirements. To ease the burden on small issuers, the federal tax code exempts governments that issue a relatively small number of tax-exempt bonds in a given year from the requirement. In general, the small issuer rebate exception can only be used by state and local governments that issue less than $5 million in governmental and 501(c)(3) bonds annually. This exception is $10 million for bonds issued for qualified educational facilities. The EGTRRA increased the small-issuer arbitrage rebate exception for school construction from $10 million to $15 million. This proposal makes permanent the $15 million arbitrage rebate exception for school construction. The proposal is effective January 1, 2011.

Tax-exempt private activity bonds for qualified education facilities. Under current law, proceeds from private activity bonds issued by a state or local government qualify as tax-exempt if 95% or more of the net bond proceeds are used for a qualified purpose as defined by the Internal Revenue Code. The EGTRRA expanded the definition of a private activity for which tax-exempt bonds may be issued to include bonds for qualified public educational facilities. Bonds issued for qualified educational facilities are not counted against a state's private-activity volume cap. Instead, these bonds have their own volume capacity limit equal to the lesser of $10 per resident or $5 million. This proposal makes permanent the allowance to issue tax-exempt private activity bonds for public school facilities. The proposal is effective January 1, 2011.

Permanent American Opportunity Tax Credit. Created under the *American Recovery and Reinvestment Act*, the American Opportunity Tax Credit is available for up to $2,500 of the cost of tuition and related expenses paid during the taxable year. Under this tax credit, taxpayers receive a tax credit based on 100% of the first $2,000 of tuition and related expenses (including course materials) paid during the taxable year and 25% of the next $2,000 of tuition and related expenses paid during the taxable year. Forty percent of the credit is refundable. This tax credit is subject to a phase-out for taxpayers with adjusted gross income in excess of $80,000 ($160,000 for married couples filing jointly). This proposal makes the American Opportunity Tax Credit permanent. The proposal is effective for taxable years beginning after December 31, 2010.

Computers as qualified education expenses in 529 education plans. Section 529 Education Plans are tax-advantaged savings plans that cover all qualified education expenses, including: tuition, room & board, mandatory fees and books. The *American Recovery and Reinvestment Act (ARRA)* provided that computers and computer technology qualify as qualified education expenses. The bill makes this provision in *American Recovery and Reinvestment Act* permanent. The proposal is effective for expenses paid or incurred after December 31, 2010.

III. Permanent Estate Tax Relief

<u>Estate Tax</u>

Permanent estate, gift and generation skipping transfer tax relief. The EGTRRA phased-out the estate and generation-skipping transfer taxes so that they were fully repealed in 2010, and lowered the gift tax rate to 35 percent and increased the gift tax exemption to $1 million for 2010. The proposal reinstates the 2009 law for the estate, gift, and generation skipping transfer taxes permanently, setting the exemption at $3.5 million per person and $7 million per couple and a top tax rate of 45 percent. The exemption amount is indexed beginning in 2011. The proposal is effective January 1, 2010, but allows an election to choose no estate tax and modified carryover basis for estates arising on or after January 1, 2010 and before the date of introduction. The proposal is effective upon date of introduction for gift and generation skipping transfer taxes.

Portability of unused exemption. Under current law, couples have to do complicated estate planning to claim their entire exemption (currently $7 million for a couple). The proposal allows the executor of a deceased spouse's estate to transfer any unused exemption to the surviving spouse without such planning.

Deferral of estate tax for farmland. The proposal allows taxpayers to defer the payment of estate taxes on farmland of a family farm until the farmland is sold or transferred outside the family or ceases to be used for farming. The proposal also increases the valuation adjustment for donations of a conservation easement.

Increase of special use revaluation amount. The proposal increases the amount of the revaluation to the exemption amount, allowing up to a $3.5 million adjustment.

Minimum 10-year term for grantor retained annuity trusts (GRATs). The proposal requires that GRATs be set up for a minimum 10-year term. The proposal applies to transfers made after the date of enactment.

Basis for estate and income taxes. The proposal clarifies that the basis of property in the hands of the heir is the same as its value for estate and gift tax purposes. The proposal also requires the executor or donor to report the value to the IRS and heir. The proposal applies to transfers for which returns are filed after the date of enactment.

IV. Permanent Small Business Tax Relief

<u>Section 179 Depreciation</u>

Permanently extend increase in the maximum amount and phase-out threshold under section 179. Under current law, a taxpayer with a sufficiently small amount of annual investment may elect to deduct the cost of certain property placed in service for the year rather than depreciate those costs over time. The 2003 tax cuts temporarily increased the maximum dollar amount that may be deducted from $25,000 to $100,000. The tax cuts also increased the phase-out amount from $200,000 to $400,000. In 2007, tax cuts temporarily increased these thresholds to $125,000 and $500,000 respectively, indexed for inflation. These amounts have been further increased and extended several times on a temporary basis, including most recently as part of the Small Business Jobs Act which increased the thresholds to $500,000 and $2,000,000 for the taxable years beginning in 2010 and 2011. This proposal makes the 2007 maximum amount and phase-out thresholds permanent at $125,000 and $500,000 respectively, indexed for inflation. The proposal is effective for taxable years beginning after December 31, 2011.

V. Alternative Minimum Tax Relief

<u>Alternative Minimum Tax (AMT)</u>

Two-year AMT patch. Currently, a taxpayer receives an exemption of $33,750 (individuals) and $45,000 (married filing jointly) under the AMT. Current law also does not allow nonrefundable personal credits against the AMT. The proposal increases the exemption amounts for 2010 to $47,450 (individuals) and $72,450 (married filing jointly) and for 2011 to $48,450 (individuals) and $74,450 (married filing jointly). The proposal also allows the nonrefundable personal credits against the AMT. The proposal is effective for taxable years beginning after December 31, 2009.

VI. Temporary Extension of Certain Provisions Expiring in 2009

<u>Infrastructure Incentives</u>

Build America Bonds ("BABs"). To date, the Build America Bonds program has been used by State and local governments to make over $150 billion of infrastructure investments nationwide. The bill extends this program for one year through 2011. For direct-pay Build America Bonds issued in 2011, the amount of the direct payment would be reduced from 35% to 32% of the coupon interest. The bill also allows issuers to issue Build America Bonds to effect a current refunding of outstanding Build America Bonds; as a result, issuers and the Federal government could save money if interest rates fall in the future.

***Water and sewer exempt-facility bonds excluded from state volume caps*.** Under current law, State agencies are generally subject to a cap with respect to the volume of private activity bonds they may issue. Certain bonds are not subject to these state volume caps. For example, bonds to finance airports, docks and wharves are excluded from state volume caps. Furthermore, qualified veterans' mortgage bonds and qualified 501(c)(3) bonds are also excluded from state volume caps. The bill excludes bonds financing facilities that furnish water and sewage facilities from state volume caps. The bill also excludes bonds financing facilities that furnish water and sewage facilities from certain limitations on tribal government issuances.

***Eliminate costs imposed on state and local governments by the alternative minimum tax*.** The alternative minimum tax (AMT) can increase the cost to state and local governments of issuing tax-exempt private activity bonds. In general, interest on tax-exempt private activity bonds is generally subject to the AMT. This limits the marketability of these bonds and, therefore, forces State and local governments to issue these bonds at higher interest rates. The *American Recovery and Reinvestment Act* excluded private activity bonds from the AMT if the bond was issued in 2009 or 2010, and allowed AMT relief for current refunding of private activity bonds issued after 2003 and refunded during 2009 and 2010. The bill extends both of these *American Recovery and Reinvestment Act* provisions for one year (i.e., exempt from AMT tax-exempt private activity bonds issued in 2011 and current refunding of private activity bonds issued after 2003 and refunded during 2011).

Recovery Zone Bonds ("RZBs"). The *American Recovery and Reinvestment Act* authorized $10 billion in Recovery Zone economic development bonds and $15 billion in Recovery Zone facility bonds. These bonds could be issued during 2009 and 2010. Each state received a share of the national allocation based on that state's job losses in 2008 as a percentage of national job losses in 2008, with each state receiving a minimum allocation of these bonds. These allocations were then sub-allocated to local municipalities. Municipalities receiving an allocation of these bonds would be permitted to use these bonds to invest in infrastructure, job training, education, and economic development in areas within the boundaries of the State, city or county (as the case may be) that has significant poverty, unemployment or home foreclosures. Because the formula that was used in the *American Recovery and Reinvestment Act* looked to net job losses instead of unemployment, some areas of the country with significant numbers of unemployed individuals did not receive any allocation of Recovery Zone bonds. The bill makes an additional allocation of Recovery Zone bonds to ensure that each local municipality receives a minimum allocation equal to at least its share of national unemployment in December 2009. The bill also extends the authorization for issuing Recovery Zone bonds through 2011.

***Direct payment in-lieu-of low-income housing credit*.** The bill extends for two years (through 2011) the program that was enacted as part of the *American Recovery and Reinvestment Act* that allows state housing agencies to elect to receive a payment in lieu of a portion of the State's allocation of low-income housing tax credits.

***Extension of tax-exempt eligibility for loans guaranteed by Federal Home Loan Banks*.** State and local governments currently face significant costs when issuing tax-exempt municipal bonds to finance state and local projects. The *Housing and Economic Recovery Act of 2008* helped these municipalities by temporarily allowing bonds that are guaranteed by Federal home loan banks to be eligible for treatment as tax-exempt bonds regardless of whether the bonds are used to finance housing programs. Allowing these bonds to be guaranteed by Federal home loan banks has helped state and local governments obtain financing for necessary projects (e.g., constructing roads, repairing bridges, building and renovating schools and hospitals, funding college loans, etc) at a lower cost. The bill extends this benefit for bonds issued through 2011.

***Extension of temporary small issuer rules for allocation of tax-exempt interest expense*.** Under current law, financial institutions are not allowed to take a deduction for the portion of their interest expense that is allocable to such institution's investments in tax-exempt municipal bonds. For purposes of this interest disallowance rule, bonds that are issued by a "qualified small issuers" are not taken into account as investments in tax-exempt municipal bonds. Under current law, a "qualified small issuer" is defined as any issuer that reasonably anticipates that the amount of its tax-exempt obligations (other than certain private activity bonds) will not exceed $10,000,000. The *American Recovery and Reinvestment Act* increased this dollar threshold to $30,000,000 when determining whether a tax-exempt obligation issued in 2009 and 2010 qualifies for this small issuer exception. The small issuer exception would also apply to an issue if all of the ultimate borrowers in such issue would separately qualify for the exception. For these purposes, the issuer of a qualified 501(c)(3) bond shall be deemed to be the ultimate borrower on whose behalf a bond was issued. The bill extends this benefit for bonds issued through 2011.

Energy

Domestic energy manufacturing. The bill provides an additional $2.5 billion in funding for the Section 48C advanced manufacturing tax credit. Section 48C was established in the *American Recovery and Reinvestment Act* to provide a 30% investment tax credit for facilities engaged in the manufacture of advanced energy property. Credits are available only for projects certified by the Secretary of Treasury, in consultation with the Secretary of Energy, through a competitive bidding process.

Payment in lieu of production and investment credits. The bill codifies the direct payment in lieu of tax credit program that was initially created by Section 1603 of the American Recovery and Reinvestment Act, and extends the program through December 31, 2011.

Credit for electricity produced at certain open-loop biomass facilities. The bill extends the credit period under the production tax credit for electricity produced at open-loop biomass facilities that were placed in service prior to January 1, 2005 from five years to seven years. The credit is reduced in 20 percent increments starting in the sixth year.

Extension of special rule for sales of electric transmission property. The bill extends for two years (for sales prior to January 1, 2012) the present law deferral of gain on sales of transmission property by vertically integrated electric utilities to FERC-approved independent transmission companies. Rather than recognizing the full amount of gain in the year of sale, this proposal allows gain on such sales to be recognized ratably over an eight-year period.

Natural gas vehicles and heavy hybrid vehicles. The bill extends through 2011 tax credits for heavy hybrid vehicles (those above 8,500 pounds) and natural gas vehicles.

Alternative vehicle refueling property. The bill extends the 30% investment tax credit for alternative vehicle refueling property for one year, through 2011. The bill also clarifies eligibility for this credit regarding electric vehicle refueling pump property.

Ethanol. The bill extends through 2011 the per-gallon tax credits and outlay payments for ethanol. The blender's credit would be extended at a rate of 36 cents per gallon, while the small producer's credit would be extended at a rate of 8 cents per gallon. The bill also extends through 2011 the existing 14.27 cents per liter (54 cents per gallon) tariff on imported ethanol and the related 5.99 cents per liter (22.67 cents per gallon) tariff on ethyl tertiary-butyl ether (ETBE).

Biodiesel and renewable diesel. The bill extends through 2011 the $1.00 per gallon production tax credit for biodiesel, and the small agri-biodiesel producer credit of 10 cents per gallon. The bill also extends through 2011 the $1.00 per gallon production tax credit for diesel fuel created from biomass.

Alternative fuels credit. The bill extends through 2011 the $0.50 per gallon alternative fuel tax credit for liquid fuels derived from biomass, compressed or liquefied biogas, natural gas and propane. The bill does not extend this credit any liquid fuel derived from a pulp or paper manufacturing process (i.e., black liquor).

Extension of energy-efficient new homes credit. The bill extends the tax credit for manufacturers of energy-efficient residential homes through 2011.

Energy-efficient existing homes. The bill extends through December 31, 2011 the period in which the section 25C tax credit (30% credit, $1500 maximum) for energy-efficient property in existing homes, as modified by the *American Recovery and Reinvestment Act*, can be claimed. Effective January 1, 2010, the bill also links eligibility for windows purchased with the tax credit to Energy Star requirements, which account for different climate regions in the United States.

***Energy-efficient appliances*.** The bill extends through 2011 and modifies standards for the credit for US-based manufacturing of energy-efficient clothes washers, dishwashers and refrigerators. For appliances manufactured in 2009 and 2010, taxpayers may elect to receive the credit as a direct payment. The direct payment would be equal to eighty-five percent (85%) of the tax credit that would otherwise have been allowed.

Natural gas distribution lines treated at 15-year property. Under current law, gas distribution lines can be depreciated over 15 years. Starting January 1, 2011 the depreciation period is 20 years. The bill extends the 15-year period for one year.

***Extension of steel industry fuel tax credit*.** The bill extends the placed-in-service date for the $2.83 per barrel-of-oil equivalent tax credit for steel industry fuel by two years (through 2011), and clarifies the definition of steel industry fuel and qualifications for ownership interests and production and sale.

***Extension of coke and coke gas production tax credit*.** The bill extends the placed-in-service date for the $3.36 credit per barrel-of-oil equivalent of coke or coke gas through 2011.

***Extension of special rule for percentage depletion for marginal wells*.** The bill extends for two years (through 2011) the suspension on the taxable income limit for purposes of depleting a marginal oil or gas well.

<u>**Individual Tax Relief**</u>

***Above-the-line deduction for certain expenses of elementary and secondary school teachers*.** The bill extends for two years (through 2011) the $250 above-the-line tax deduction for teachers and other school professionals for expenses paid or incurred for books, supplies (other than non-athletic supplies for courses of instruction in health or physical education), computer equipment (including related software and service), other equipment, and supplementary materials used by the educator in the classroom.

***Additional standard deduction for real property taxes*.** The bill extends for two years (through 2011) the additional standard deduction for State and local real property taxes.

***Deduction of State and local general sales taxes*.** The bill extends for two years (through 2011) the election to take an itemized deduction for State and local general sales taxes in lieu of the itemized deduction permitted for State and local income taxes.

***Extension of provision encouraging contributions of capital gain real property for conservation purposes*.** The bill extends for two years (through 2011) the increased contribution limits and carryforward period for contributions of appreciated real property (including partial interests in real property) for conservation purposes.

***Above-the-line deduction for qualified tuition and related expenses*.** The bill extends for two years (through 2011) the above-the-line tax deduction for qualified education expenses.

***Extension of tax-free distributions from individual retirement plans for charitable purposes*.** The bill extends for two years (through 2011) the provision that permits tax-free distributions to charity from an Individual Retirement Account (IRA) of up to $100,000 per taxpayer, per taxable year.

Estate tax look-through of certain Regulated Investment Company (RIC) stock held by nonresidents. Although stock issued by a domestic corporation generally is treated as property within the United States, stock of a RIC that was owned by a nonresident non-citizen is not deemed property within the United States in the proportion that, at the end of the quarter of the RIC's taxable year immediately before a decedent's date of death, the assets held by the RIC are debt obligations, deposits, or other property that would be treated as situated outside the United States if held directly by the estate (the "estate tax look-through rule for RIC stock"). The proposal permits the look-through rule for RIC stock to apply to estates of decedents dying before January 1, 2012.

Direct payment in-lieu-of low-income housing credit. The bill extends for two years (through 2011) the program that was enacted as part of the *American Recovery and Reinvestment Act* that allows state housing agencies to elect to receive a payment in lieu of a portion of the State's allocation of low-income housing tax credits.

<u>Business Tax Relief</u>

R&D credit. The bill reinstates for two years (through 2011) the research credit.

Indian employment credit. The bill extends for two years (through 2011) the business tax credit for employers of qualified employees that work and live on or near an Indian reservation. The amount of the credit is 20 percent of the excess of wages and health insurance costs paid to qualified employees (up to $20,000 per employee) in the current year over the amount paid in 1993.

New Markets Tax Credit. Through the New Markets Tax Credit (NMTC) program, the federal government is able to leverage federal tax credits to encourage significant private investment in businesses in low-income communities. For each dollar of qualified private investment, the NMTC program provides investors with either five cents or six cents of federal tax credits (depending on the amount of time that has passed since the original investment was made). The value of these tax credits depends on a taxpayer's ability to use these credits to offset tax liability. The NMTC program will not encourage investors to make investments in low-income communities if these investors are unable to use these credits to offset tax liability. Taxpayers that are subject to the alternative minimum tax (AMT) are unable to use NMTC to offset their AMT tax liability. The bill extends for two years (through 2011) the new markets tax credit, permitting a maximum annual amount of qualified equity investments of $5 billion. This is effective for calendar years beginning after December 31, 2009. In order to ensure that the NMTC encourages AMT taxpayers to make qualifying investments, the bill also allows NMTC to be claimed against the AMT with respect to qualified investments made between March 15, 2010 and January 1, 2013.

Extension of railroad track maintenance credit. The bill extends for two years (through 2011) the railroad track maintenance credit.

Mine rescue team training credit. The bill extends for two years (through 2011) the credit for training mine rescue team members and would allow this credit to be claimed against the AMT.

Employer wage credit for activated military reservists. The bill extends for two years (through 2011) the provision that provides eligible small business employers with a credit against the taxpayer's income tax liability for a taxable year in an amount equal to 20 percent of the sum of differential wage payments to activated military reservists.

***Five year depreciation for farming business machinery and* equipment.** The bill extends for two years (through 2011) the provision that provides a five-year recovery period for certain machinery and equipment which is used in a farming business.

Tax benefits for certain real estate developments. The bill extends for two years (through 2011) the special 15-year cost recovery period for certain leasehold improvements, restaurant buildings and improvements, and retail improvements.

***Extension of seven year straight line cost recovery period for motorsports entertainment complexes*.** The bill extends for two years (through 2011) the special seven year cost recovery period for property used for land improvement and support facilities at motorsports entertainment complexes.

***Accelerated depreciation for business property on an Indian reservation*.** The bill extends for two years (through 2011) the placed-in-service date for the special depreciation recovery period for qualified Indian reservation property. In general, qualified Indian reservation property is property used predominantly in the active conduct of a trade or business within an Indian reservation, which is not used outside the reservation on a regular basis and was not acquired from a related person.

***Extension of enhanced charitable deduction for contributions of food inventory*.** The bill extends for two years (through 2011) the provision allowing businesses to claim an enhanced deduction for the contribution of food inventory.

***Extension of enhanced charitable deduction for contributions of book inventories to public schools*.** The bill extends for two years (through 2011) the provision allowing C corporations to claim an enhanced deduction for contributions of book inventory to public schools (kindergarten through grade 12).

***Extension of enhanced charitable deduction for corporate contributions of computer equipment for educational purposes*.** The bill extends for two years (through 2011) the provision that encourages businesses to contribute computer equipment and software to elementary, secondary, and post-secondary schools by allowing an enhanced deduction for such contributions.

***Election to expense advanced mine safety equipment*.** The bill extends for two years (through 2010) the provision that provides businesses with 50 percent bonus depreciation for certain qualified underground mine safety equipment.

***Extension of special expensing rules for U.S. film and television productions*.** The bill extends for two years (through 2011) the provision that allows film and television producers to expense the first $15 million of production costs incurred in the United States ($20 million if the costs are incurred in economically depressed areas in the United States).

Extension of expensing of "brownfields" environmental remediation costs. The bill extends for two years (through 2011) the provision that allows for the expensing of costs associated with cleaning up hazardous "brownfield" sites.

***Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico*.** The bill extends for two years (through 2011) the provision extending the section 199 domestic production activities deduction to activities in Puerto Rico.

***Extension of special tax treatment of certain payments to controlling exempt organizations*.** The bill extends for two years (through 2011) the special rules for interest, rents, royalties and annuities received by a tax exempt entity from a controlled entity.

***Extension of exclusion of gain on the sale or exchange of certain "brownfield" sites from unrelated business taxable income*.** The bill extends for two years (through 2011) the provision that excludes any gain or loss from the qualified sale, exchange, or other disposition of any qualified brownfield property from unrelated business taxable income.

***Taxation of qualified timber gain and timber REIT provisions*.** Under current law, gains on timber sales are eligible for capital gains tax treatment. The bill provides an extension through 2011 of a provision included in the Farm Bill of 2008 that created an alternative maximum tax rate of 15 percent for gain on qualified timber harvest by a C corporation. Qualified timber gain is gain from the sale or exchange of timber held for at least 15 years. In addition, the bill extends through 2011 other Farm Bill provisions intended to modernize the taxation of timber real estate investment trusts (REITS) including: (1) clarifying that gains from the sale of timber held for less than one year is qualifying income; (2) providing that mineral royalty income is qualifying income; and (3) making changes to the safe harbors for timber property sales.

Treatment of certain dividends of Regulated Investment Companies (RICs). The bill extends a provision allowing a RIC, under certain circumstances, to designate all or a portion of a dividend as an "interest-related dividend," by written notice mailed to its shareholders not later than 60 days after the close of its taxable year. In addition, an interest-related dividend received by a foreign person generally is exempt from U.S. gross-basis tax under sections 871(a), 881, 1441 and 1442 of the Code. The proposal extends the treatment of interest-related dividends and short-term capital gain dividends received by a RIC to taxable years of the RIC beginning before January 1, 2012.

***Treatment of RIC investments as "Qualified Investment Entities" under FIRPTA*.** The bill extends the inclusion of a RIC within the definition of a "qualified investment entity" under section 897 of the Tax Code through December 31, 2011.

***Active financing exception*.** The bill extends for two years (through 2011) the active financing exception from Subpart F of the tax code.

***Look-through treatment of payments between related controlled foreign corporations*.** The bill extends for two years (through 2011) the current law look-through treatment of payments between related controlled foreign corporations.

***Extension of special rule for S corporations making charitable contributions of property*.** The bill extends for two years (through 2011) the provision allowing S corporation shareholders to take into account their pro rata share of charitable deductions even if such deductions would exceed such shareholder's adjusted basis in the S corporation.

Empowerment Zones. The bill extends for two years (through 2011) the designation of certain economically depressed census tracts as Empowerment Zones. Businesses and individual residents within Empowerment Zones are eligible for special tax incentives.

***District of Columbia Enterprise Zone*.** The bill extends for two years (through 2011) the designation of certain economically depressed census tracts within the District of Columbia as the District of Columbia Enterprise Zone. Businesses and individual residents within this enterprise zone are eligible for special tax incentives. The bill also extends for two years (through 2011) the $5,000 first-time homebuyer credit for the District of Columbia.

***Renewal Communities*.** The bill extends for two years (through 2011) the designation of certain economically depressed census tracts as Renewal Communities. Businesses and individual residents within Renewal Communities are eligible for special tax incentives.

***Extension of temporary increase in limit on cover over of rum excise tax revenues to Puerto Rico and the Virgin Islands*.** The bill extends for two years (through 2011) the provision providing for payment of $13.25 per gallon to cover over a $13.50 per proof gallon excise tax on distilled spirits produced in or imported into the United States.

***American Samoa economic development support*.** Existing possessions credit corporations with active business operations in American Samoa were allowed an economic development tax credit to offset their U.S. tax liability on income earned in American Samoa from active business operations. This credit was based on the corporation's employment and capital investment in American Samoa. As a result of the economic downturn, those domestic corporations have been unable to utilize the economic development credit. The bill makes the credit refundable.

***Refundable AMT credits for corporations making domestic investments*.** Under current law, corporations are allowed to take a credit against their regular tax liability for previously paid alternative minimum taxes (AMT). However, in order to claim these tax credits, the corporation must be subject to the regular tax instead of the AMT. Many corporations are subject to the AMT for substantial periods of time. As a result, these corporations accumulate substantial AMT credits. The bill allows corporations to receive a refund of a portion of their AMT credits if they invest during 2010 in capital equipment for use in the United States.

***Study of extended tax expenditures*.** The bill directs the Chief of Staff of the Joint Committee on Taxation to submit a report to the Committee on Ways and Means and the Committee on Finance on each tax expenditure extended by Title VI of this Act.

Disaster Relief Provisions

***Relaxed mortgage revenue bond limitations for federal disasters*.** The bill extends for two years (through 2011) the provision that allows states to waive certain rules that limit their ability to use tax-exempt housing bonds to provide loans to taxpayers that wish to acquire residences in Federally-declared disaster areas. The bill also extends for two years (through 2011) the provision that allows states to use their tax-exempt housing bonds to provide loans to repair or reconstruct homes and rental housing units that have been rendered unsafe for use as a residence by reason of a Federally-declared disaster or have been demolished or relocated by reason of government order on account of a Federally-declared disaster. Such loans are limited to the lower of (1) the actual cost of the repair or reconstruction or (2) $150,000.

Expanded and enhanced casualty loss deductions relating to federal disasters. The bill extends for two years (through 2011) the provision that allows taxpayers who have suffered loss as a result of a Federally-declared disaster to claim a deduction for casualty losses (i.e., both itemizers and non-itemizers) and allows these taxpayers to calculate their casualty loss deduction without regard to their adjusted gross income. The bill also extends for one year (through 2010) the current law $500 per loss threshold.

Bonus depreciation for qualified disaster property. The bill extends for two years (through 2011) the provision that permits businesses that suffered damage as a result of a Federally-declared disaster to claim an additional first-year depreciation deduction equal to 50 percent of the cost of new real and personal property investments made in the Presidentially-declared disaster area.

***Five-year carry-back period for certain losses relating to federal disasters*.** The bill extends for two years (through 2011) the provision that allows businesses to carry back to the previous five years the following losses: (1) casualty losses that are attributable to a Federally-declared disaster; and (2) Qualified Disaster Expenses.

***Expensing of qualified disaster expenses*.** The bill extends for two years (through 2011) the provision that allows businesses that have been affected by a Federally-declared disaster to currently deduct demolition, repair, clean-up, and environmental remediation expenses ("Qualified Disaster Expenses").

***Increased small business expensing for expenditures relating to federal disasters*.** The bill extends for two years (through 2011) the provision that increases by $100,000 (or the cost of qualified property, if less) the amount of expensing available for qualifying expenditures made in a Federally-declared disaster area. The bill also extends for two years (through 2011) the provision that increases by $600,000 (or the cost of qualified property, if less) the level of investment at which the small business expensing benefits phase-out.

***Extension of tax incentives for the New York Liberty Zone*.** The bill extends for two years (through 2011) the special depreciation allowance for certain real property within the New York Liberty Zone effective for property placed in service after December 31, 2009 and the time for issuing New York Liberty Zone bonds effective for bonds issued after December 31, 2009.

Extension of increased rehabilitation credit for historic structures in the Gulf Opportunity Zone. The bill extends for one year (through 2010) the increased rehabilitation credit for qualified expenditures in the Gulf Opportunity Zone. The Gulf Opportunity Zone Act of 2005 increased the rehabilitation credit from 10 percent to 13 percent of qualified expenditures for any qualified rehabilitated building other than a certified historic structure, and from 20 percent to 26 percent of qualified expenditures for any certified historic structure.

***Extend Work Opportunity Tax Credit (WOTC) for Hurricane Katrina Employees*.** The bill extends for one year (through August 28, 2010) the work opportunity tax credit for certain employers hiring in the Hurricane Katrina core disaster area. The proposal is effective for individuals hired after August 27, 2009.

***Two-year extension of Gulf Opportunity Zone low-income housing placed-in-service date*.** The Gulf Opportunity Zone Act of 2005 provided an additional allocation of low-income housing tax credits to the Gulf Opportunity Zone in an amount equal to the product of $18.00 multiplied by the portion of the State population which is in the Gulf Opportunity Zone. The additional allocations were made in calendar years 2006, 2007, and 2008, and required that the properties be placed in service before January 1, 2011. The bill extends that placed-in-service date by two years (through 2012).

***Disaster Low-Income Housing Tax Credits*.** Under current law, every year states receive allocations of low-income housing tax credits (LIHTC) based on population or a small state set-aside. In response to Hurricane Katrina in 2005, as well as the floods in the Midwest in 2007, the LIHTC was expanded to allow for additional credits, called "disaster credits", to help affected states rebuild. This amount is on top of what States receive under current law. As part of the *American Recovery and Reinvestment Act* of 2009, LIHTCs are eligible to be exchanged for grants. This exchange program only applies to LIHTCs allocated based on population – it did not apply to disaster credits. In the underlying bill, LIHTCs allocated in 2010 are eligible to be refundable credits. This proposal also allows disaster credits from the Katrina and Midwestern flood disasters to be exchanged for either grants or refundable credits.

VII. Technical Corrections to Pension Funding Legislation

***Technical corrections to pension funding relief*.** These proposals provide technical changes to the funding relief the President signed into law on June 25, 2010. The principal purpose of these changes is to make the provisions that were enacted clearer and more administrable. This will allow companies access to the important relief without having to wait for administrative guidance. These technical changes do not represent any change in policy from the funding relief provisions as originally enacted. In addition, the amendment reflects the intent of the statute as enacted by clarifying that the extra relief for charities is available only for national charities that have many local chapters and provide services with respect to children.

VIII. Temporary Extension of Certain Provisions Ending in 2010

Unemployment Insurance

Extension of unemployment insurance. The unemployment insurance proposal provides a one-year reauthorization of federal UI benefits. The proposal continues the Emergency Unemployment Compensation (EUC) benefits for one year. In addition, it continues 100% Federal Financing of Extended Benefits (EB) for one year, and makes changes to the EB look-back enabling states to continue to trigger on EB.

Small Business

Exclusion of small business capital gains. Generally, non-corporate taxpayers may exclude 50 percent of the gain from the sale of certain small business stock acquired at original issue and held for more than five years. For stock acquired after February 17, 2009 and on or before September 27, 2010, the exclusion is increased to 75 percent. For stock acquired after September 27, 2010 and before January 1, 2011, the exclusion is 100 percent and the AMT preference item attributable for the sale is eliminated. Qualifying small business stock is from a C corporation whose gross assets do not exceed $50 million (including the proceeds received from the issuance of the stock) and who meets a specific active business requirement. The amount of gain eligible for the exclusion is limited to the greater of ten times the taxpayer's basis in the stock or $10 million of gain from stock in that corporation. The provision extends the 100 percent exclusion of the gain from the sale of qualifying small business stock that is acquired before January 1, 2012 and held for more than five years.

General business credits carried back five years. Generally, a business' unused general business credit may be carried back to offset taxes paid in the previous year, and the remaining amount may be carried forward for 20 years to offset future tax liabilities. The *Small Business Jobs Act* allows certain small businesses to carry back five years unused general business credits generated in the taxpayer's first taxable year beginning in 2010. Eligible small businesses include those sole proprietorships, partnerships and non-publicly traded corporations with $50 million or less in average annual gross receipts for the prior three years. The proposal extends the five year carry back period for general business credits generated the following year (in the taxable year beginning in 2011).

General business credits not subject to AMT. Under the Alternative Minimum Tax (AMT), taxpayers may generally only claim allowable general business credits against their regular tax liability, and only to the extent that their regular tax liability exceeds their AMT liability. A few credits may be used to offset AMT liability, such as the credit for small business employee health insurance expense. The *Small Business Jobs Act* allows certain small businesses to use all types of general business credits generated in the taxpayer's first taxable year beginning in 2010 against their AMT. Eligible small businesses include those sole proprietorships, partnerships and non-publicly traded corporations with $50 million or less in average annual gross receipts for the prior three years. The proposal extends the allowance for certain small businesses to use all types of general business credits generated the following year (in the taxable year beginning in 2011) against their AMT.

Increased deduction for start-up expenditures. Generally, taxpayers may deduct up to $5,000 in trade or business start-up expenditures. The amount that a business may deduct is reduced by the amount by which start-up expenditures exceed $50,000. Start-up expenditures are defined as expenses paid or incurred in connection with investigating or creating an active trade or business, which would be deductible if paid or incurred in connection with the operation of an existing trade or business. For the taxable year beginning in 2010, the *Small Business Jobs Act* temporarily increases the amount of start-up expenditures that may be deducted to $10,000 subject to a $60,000 phase-out threshold. The proposal extends this increased deduction for an additional year, through 2011.

Deduction for health insurance costs for self-employed. Under current law, business owners are not permitted to deduct the cost of health insurance for themselves and their family members for purposes of calculating self-employment tax. The *Small Business Jobs Act* allows business owners to deduct the cost of health insurance incurred in 2010 for themselves and their family members in the calculation of their 2010 self-employment tax. The proposal extends the deduction allowance for health insurance costs for self-employed for an additional year, so that costs can be deducted in the calculation of 2011 self-employment tax.

Energy

Clean Renewable Energy Bonds (CREBs). The *American Recovery and Reinvestment Act* authorized an additional $1.6 billion of new clean renewable energy bonds to finance facilities that generate electricity from the following resources: wind; closed-loop biomass; open-loop biomass; geothermal; small irrigation; hydropower; landfill gas; marine renewable; and trash combustion facilities. The $1.6 billion authorization was subdivided into thirds: 1/3 for qualifying projects of State/local/tribal governments; 1/3 for qualifying projects of public power providers; and 1/3 for qualifying projects of electric cooperatives. As part of the HIRE Act, Congress allowed bond issuers to convert the tax credit bond into a direct subsidy bond. The proposal provides an additional allocation of $1.6 billion while maintaining the ability for issuers to convert to a direct subsidy bond in lieu of a tax credit bond.

Education

Qualified school construction bonds. The *American Recovery and Reinvestment Act* created a new category of tax credit bonds for the construction, rehabilitation, or repair of public school facilities or for the acquisition of land on which a public school facility will be constructed. There was a national limitation on the amount of qualified school construction bonds that could be issued by State and local governments of $22 billion ($11 billion allocated initially in 2009 and the remainder allocated in 2010). There was also a national limitation on the amount of qualified school construction bonds that could be issued by Indian tribal governments of $400 million ($200 million allocated initially in 2009 and the remainder allocated in 2010). As part of the HIRE Act, Congress allowed bond issuers to convert the tax credit bond into a direct subsidy bond. This bill authorizes an additional $11 billion of QSCBs and extends the period of time that State and local governments can issue these new tax credit bonds for an additional year, through 2011, while maintaining the ability for issuers to convert to a direct subsidy bond in lieu of a tax credit bond.

Other Employee and Housing Relief

Extension of Making Work Pay tax credit. The *American Recovery and Reinvestment Act (ARRA)* included a provision that provided a refundable tax credit of up to $400 for working individuals and $800 for working families in 2009 and 2010. The tax credit is equal to 6.2% of earned income, and would phase out for taxpayers with adjusted gross income in excess of $75,000 ($150,000 for married couples filing jointly). Taxpayers receive this benefit through a reduction in the amount of income tax that is withheld from their paychecks, or through claiming the credit on their tax returns. The proposal extends this tax credit for an additional year, through 2011.

Work opportunity tax credit (WOTC). Under current law, businesses are allowed to claim a work opportunity tax credit equal to 40 percent of the first $6,000 of wages paid to new hires of one of nine targeted groups. These groups include members of families receiving benefits under the Temporary Assistance to Needy Families (TANF) program, qualified veterans, designated community residents, and others. The WOTC program is currently set to expire August 31, 2011. The bill extends this provision through December 31, 2011 and would be effective for employees hired after date of enactment. The proposal also extends the addition of two targeted groups (unemployed veterans and disconnected youth) through 2011. The extension of the additional two targeted groups is effective for employees beginning work for the employer after December 31, 2010.

Exclusion from income for benefits provided to volunteer firefighters and emergency responders. The *Mortgage Forgiveness Debt Relief Act of 2007* and the *Heroes Earnings Assistance and Relief Tax Act* provided that volunteer firefighters and emergency responders may exclude certain benefits from income provided on account of the volunteer service. Beginning January 1, 2008, these benefits also included the value of property tax abatements. The proposal extends the exclusion of certain benefits from income for an additional year, through 2011.

***Parity for mass transit benefits*.** The bill extends for one year the increase in the fringe benefit for mass transit, making it equal to the fringe benefit provided for parking.

Premiums for mortgage insurance deductible as interest that is qualified residence interest. Under current law, a taxpayer may itemize the cost of mortgage insurance on a qualified personal residence. The deduction is phased-out ratably by 10% for each $1,000 by which the taxpayer's AGI exceeds $100,000. Thus, the deduction is unavailable for a taxpayer with an AGI in excess of $110,000. The bill extends this provision for an additional year, through 2011.

IX. Other Provisions

1099 Repeal

Repeal of expansion of corporate information reporting. This proposal repeals expanded information return reporting rules that required businesses that pay $600 or more during the year to both non-corporate and corporate providers of property and services to file an information report with each provider and with the IRS reporting the amount paid for the property provided and services rendered. Previous information return reporting rules remain in place.

Other EGTRRA Provisions

Permanent tax relief for Alaska settlement funds. The EGTRRA allowed an election in which Alaska Native settlement trusts can elect to pay tax at the same rate as the lowest individual marginal rate, rather than the higher rates that generally apply to trusts. Beneficiaries of the trust do not pay tax on the distributions of an electing trust's taxable income. Finally, contributions by an Alaska Native corporation to an electing trust will not be deemed distributions to the corporation's shareholders. This proposal makes permanent the elective tax treatment for Alaska Native settlement trusts. The proposal is effective for taxable years beginning after December 31, 2010.

Postponement of tax –related deadlines by reason of presidentially declared disaster. The EGTRRA expanded the period of time that the Secretary of the Treasury could postpone deadlines from 90 days to 120 days for taxpayers affected by a presidentially declared disaster. This proposal makes permanent the extension of the postponement deadline. The proposal is effective for taxable years beginning after December 31, 2010.

Means Tested Programs

***Refund and tax credit disregard for means tested programs**.* Current law ensures that the refundable components of the EITC and the Child Tax Credit do not make households ineligible for means-tested benefit programs and includes provisions stating that these tax credits do not count as income in determining eligibility (and benefit levels) in means-tested benefit programs, and also do not count as assets for specified periods of time. Without them, the receipt of a tax credit would put a substantial number of families over the income limits for these programs in the month that the tax refund is received. The proposal permanently disregards all refundable tax credits and refunds as income for means tested programs. The proposal is effective for amounts received after December 31, 2009.

Reverse Morris Trusts

Clarification of gain recognized in certain spin-off transactions (e.g., "Reverse Morris Trust" transactions). Under current law, taxes are generally imposed on parent corporations where they extract value in excess of basis from their subsidiaries prior to engaging in a tax-free spin-off transaction. Therefore, if a subsidiary corporation distributes cash or other property to its parent in excess of the parent's basis in the subsidiary or if a subsidiary corporation assumes parent debt in excess of the parent's basis in the subsidiary, the parent corporation will recognize gain. However, taxes are not assessed if a subsidiary corporation distributes its own debt securities to a parent corporation prior to a spin off transaction even where the value of these securities would exceed the parent corporation's basis in its subsidiary. This proposal treats distributions of debt securities in a tax-free spin-off transaction in the same manner as distributions of cash or other property. Subject to transition rules, the proposal applies to exchanges after December 31, 2010.

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