

# ***H.R. 7202***

## ***Temporary Tax Relief Act of 2008***

**September 28, 2008**

**Summary:** H.R. 7202, the *Temporary Tax Relief Act of 2008*, will extend \$42 billion of expiring temporary tax provisions, generally for two years (through 2009), including the research and development credit, special rules for active financing income, the State and local sales tax deduction, the deduction for out-of-pocket expenses for teachers, and the deduction for qualified tuition expenses. The bill would also provide (in tax year 2009) more than \$3 billion of additional tax relief for individuals through an expansion of the refundable child tax credit. The bill would reauthorize (through 2009) the Secure Rural Schools program. In addition, the bill would include comprehensive, bipartisan mental health parity legislation. The bill would be offset using revenue-raising provisions that have passed the Senate with overwhelming support, including provisions that would: (1) extend the FUTA surtax for one year; (2) extend and increase funding for the Oil Spill Liability Trust Fund; (3) close a tax loophole that allows individuals that work for certain offshore corporations, such as hedge fund managers, to defer tax on their compensation, and (4) delay a tax benefit for multinational corporations operating overseas that has yet to take effect.

### **EXTENSION OF TEMPORARY TAX PROVISIONS**

#### **I. EXTENDERS PRIMARILY AFFECTING INDIVIDUALS**

**Extension of the deduction of State and local general sales taxes.** The bill would for two years (through 2009) extend 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. *This proposal is estimated to cost \$3.304 billion over 10 years.*

**Extension of above-the-line deduction for qualified tuition and related expenses.** The bill would for two years (through 2009) extend the above-the-line tax deduction for qualified education expenses. For tax year 2007, the maximum deduction was \$4,000 for taxpayers with AGI of \$65,000 or less (\$130,000 for joint returns) or \$2,000 for taxpayers with AGI of \$80,000 or less (\$160,000 for joint returns). *This proposal is estimated to cost \$2.397 billion over 10 years.*

**Extension of special rules for regulated investment companies.** The bill would for two years (through 2009) extend the tax treatment of interest-related dividends, short-term capital gain dividends, and other special rules applicable to foreign shareholders that invest in regulated investment companies. *This proposal is estimated to cost \$154 million over 10 years.*

**Extension of tax-free distributions from individual retirement plans for charitable purposes.** The bill would for two years (through 2009) extend the provision that permits tax-free charitable contributions from an Individual Retirement Account (IRA) of up to \$100,000 per taxpayer, per taxable year. *This proposal is estimated to cost \$795 million over 10 years.*

**Extension of above-the-line deduction for certain expenses of elementary and secondary school teachers.** The bill would for two years (through 2009) extend 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 services), other equipment, and supplementary materials used by the educator in the classroom. *This proposal is estimated to cost \$410 million over 10 years.*

**Extension of the additional standard deduction for real property taxes.** The bill would for one year (through 2009) extend the additional standard deduction for State and local real property taxes. *This proposal is estimated to cost \$1.495 billion over 10 years.*

## **II. EXTENDERS PRIMARILY AFFECTING BUSINESSES**

**Extension of R&D credit.** The bill would for two years (through 2009) extend the research credit. *This proposal is estimated to cost \$17.898 billion over 10 years.*

**Extension of Indian employment credit.** The bill would for two years (through 2009) extend the business tax credit for employers of qualified employees that work and live on or near an Indian reservation. The credit is for wages and health insurance costs paid to qualified employees (up to \$20,000) in the current year over the amount paid in 1993. Wages for which the work opportunity tax credit is available are not qualified wages for the Indian employment tax credit. *This proposal is estimated to cost \$119 million over 10 years.*

**Extension of New Markets Tax Credit.** The bill would for one year (through 2009) extend the new markets tax credit, permitting a \$3.5 billion maximum annual amount of qualified equity investments. *This proposal is estimated to cost \$1.315 billion over 10 years.*

**Extension of railroad track maintenance credit.** The bill would for two years (through 2009) extend the railroad track maintenance credit. The railroad track maintenance credit provides Class II and Class III railroads (e.g., short-line railroads) with a tax credit equal to 50 percent of gross expenditures for maintaining railroad tracks that they own or lease. *This proposal is estimated to cost \$331 million over 10 years.*

**Extension of 15-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant improvements** The bill would for two years (through 2009) extend the special 15-year cost recovery period for certain leasehold and qualified restaurant improvements. Absent an extension of this provision, the cost recovery period for these facilities would be 39 years. *This proposal is estimated to cost \$6.791 billion over 10 years.*

**Extension of 7-year straight-line cost recovery period for motorsports entertainment**

**complexes.** The bill would for two years (through 2009) extend the special 7-year cost recovery period for property used for land improvement and support facilities at motorsports entertainment complexes. Absent an extension of this provision, the cost recovery period for these facilities would be 15 years. *This proposal is estimated to cost \$100 million over 10 years.*

**Extension of accelerated depreciation for business property on an Indian reservation.** The bill would for two years (through 2009) extend 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. *This proposal is estimated to cost \$295 million over 10 years.*

**Extension of expensing of “brownfields” environmental remediation costs** The bill would for two years (through 2009) extend the provision that allows for the expensing of costs associated with cleaning up hazardous (“brownfield”) sites. *This proposal is estimated to cost \$357 million over 10 years.*

**Extension of deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.** The bill would for two years (through 2009) extend the provision extending the section 199 domestic production activities deduction to activities in Puerto Rico. *This proposal is estimated to cost \$243 million over 10 years.*

**Extension of special tax treatment of certain payments to controlling exempt organizations.** The bill would for two years (through 2009) extend the special rules for interest, rents, royalties and annuities received by a tax exempt entity from a controlled entity. *This proposal is estimated to cost \$47 million over 10 years.*

**Reauthorization of Qualified Zone Academy Bonds (QZABs).** The bill allows an additional \$400,000,000 of QZAB issuing authority to State and local governments in each of 2008 and 2009, which can be used to finance renovations, equipment purchases, developing course material, and training teachers and personnel at a qualified zone academy. In general, a qualified zone academy is any public school (or academic program within a public school) below college level that is located in an empowerment zone or enterprise community and is designed to cooperate with businesses to enhance the academic curriculum and increase graduation and employment rates. QZABs are a form of tax credit bonds which offer the holder a Federal tax credit instead of interest. *This proposal is estimated to cost \$379 million over 10 years.*

**Extension of tax incentives for investment in the District of Columbia.** The bill would for two years (through 2009) extend 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 would also for two years (through 2009) extend the \$5,000 first-time homebuyer credit for the District of Columbia. *This proposal is estimated to cost \$179 million over 10 years.*

**Extension of American Samoa economic development credit.** The bill would for two years

(through 2009) extend the American Samoa economic development credit. In general, this credit provides certain domestic corporations operating in American Samoa with a possessions tax credit to offset their U.S. tax liability on income earned in American Samoa from active business operations, sales of assets used in a business, or certain investments in American Samoa. *This proposal is estimated to cost \$33 million over 10 years.*

**Extension of enhanced charitable deduction for contributions of food inventory.** The bill would for two years (through 2009) extend the provision allowing businesses to claim an enhanced deduction for the contribution of food inventory. *This proposal is estimated to cost \$123 million over 10 years.*

**Enhanced charitable deduction for contributions of book inventories to public schools.** The bill would for two years (through 2009) extend the provision allowing C corporations to claim an enhanced deduction for contributions of book inventory to public schools (kindergarten through grade 12). *This proposal is estimated to cost \$49 million over 10 years.*

**Extension of enhanced deduction for corporate contributions of computer equipment for educational purposes.** The bill would for two years (through 2009) extend a 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. *This proposal is estimated to cost \$356 million over 10 years.*

**Extension of special rule for S corporations making charitable contributions of property.** The bill would for two years (through 2009) extend 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. The bill would also make a technical correction clarifying the application of this provision. *This proposal is estimated to cost \$132 million over 10 years.*

**Extension of work opportunity tax credit for Hurricane Katrina employees.** The bill would for two years (through 2009) extend the provision that expired in August of 2007 which allowed employers to claim the work opportunity tax credit for hiring employees who were affected by Hurricane Katrina. *This proposal is estimated to cost \$29 million over 10 years.*

**Extension of active financing exception.** The bill would for one year (through 2009) extend the active financing exception from Subpart F of the tax code. *This proposal is estimated to cost \$3.970 billion over 10 years.*

**Extend look-through treatment of payments between related controlled foreign corporations.** The bill would for one year (through 2009) extend the current law look-through treatment of payments between related controlled foreign corporations. *This proposal is estimated to cost \$611 million over 10 years.*

**Extend special expensing rules for certain film and television productions.** The bill would

for one year (through 2009) extend the current law special expensing rules for U.S. film and television productions for. *This proposal is estimated to cost \$11 million over 10 years.*

### **III. OTHER EXTENDERS**

**Extension of disclosures of certain tax return information.** The bill would permanently extend the current-law terrorist activity disclosure provisions. *This proposal estimated to have no revenue effect.*

**Extension of authority for undercover operations.** The bill would permanently extend the authorization for the IRS to engage in certain activities related to undercover operations, such as purchasing property, organizing business entities and use the proceeds from an undercover operation to pay additional expenses incurred in the undercover operation. *This proposal is estimated to have a negligible revenue effect.*

**Extension of temporary increase in limit on cover over of run excise tax revenues to Puerto Rico and the Virgin islands.** The bill would for two years (through 2009) extend 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. *This proposal is estimated to cost \$192 million over 10 years.*

### **ADDITIONAL TAX RELIEF**

**Change in refundable child credit.** The bill would increase the eligibility for the refundable child tax credit in 2009. The child tax credit is refundable to the extent of 15 percent of the taxpayer's earned income in excess of approximately \$12,050 as a result of inflation adjustments to the original floor of \$10,000. The bill would reduce this floor to \$8,500 for 2009. *This proposal is estimated to cost \$3.419 billion over 10 years.*

**Provisions related to film and television productions.** Under current law, taxpayers have not been able to take full advantage of tax incentives that are intended to encourage film and television companies to produce films here in the United States rather than overseas because of a number of technical issues. The bill would fix these issues. *This proposal is estimated to cost \$468 million over 10 years.*

**Exemption of excise tax on certain wooden and fiberglass arrows designed for use by children.** Current law imposes an excise tax of 39 cents, adjusted for inflation, on the first sale by the manufacturer, producer, or importer of any shaft of a type used to produce certain types of arrows. The bill would exempt from the excise tax certain wooden and fiberglass arrows designed for use by children. *This proposal is estimated to cost \$6 million over 10 years.*

**Modification of penalty on understatement of taxpayer's liability by tax return preparer.** The bill would conform the penalty standards for return preparers with the standards for taxpayers. For undisclosed positions, the penalty standard for return preparers is reduced to

substantial authority. For disclosed positions, a return preparer generally must have a reasonable basis for the position. For positions involving tax shelters and certain reportable transactions, a return preparer must have a reasonable belief that the position would more likely than not be sustained on the merits. *This proposal is estimated to cost \$22 million over 10 years.*

## **SECURE RURAL SCHOOLS**

**Reauthorization of the Secure Rural Schools and Community Self-Determination Act of 2000 and Payment in Lieu of Taxes.** The bill would reauthorize the Secure Rural Schools program through 2009. It also adjusts the funding distribution formula to take into account historic payment levels to counties, average income levels in counties and acreage of federal land. Finally, the provision also provides for full funding for the Payment in Lieu of Taxes program for 2009. *This proposal is estimated to cost \$1.007 billion over 10 years.*

## **MENTAL HEALTH PARITY**

**Comprehensive Mental Health Parity legislation.** The bill would include provisions that reflect compromise mental health parity language worked out between the House and Senate. This bill would require private insurance plans that offer mental health and substance abuse benefits as part of the coverage to offer such benefits on par with the medical and surgical benefits. Any cost-sharing or benefit limits imposed on mental health or addiction treatment services must not be any more restrictive than those imposed on medical services. The proposal is effective for plan years that begin one year after date of enactment (e.g., likely 2010 for many plans). The provisions of this section passed the House of Representatives in September 2008 as part of H.R. 6983 by a vote of 376-47 (with 143 Republicans joining 233 Democrats in support). *This proposal is estimated to cost \$3.900 billion over 10 years.*

## **REVENUE PROVISIONS**

**Extend FUTA taxes for one year.** The Federal Unemployment Tax Act (“FUTA”) imposes a 6.2 percent gross tax rate on the first \$7,000 paid annually by covered employers to each employee. In 1976, Congress passed a temporary surtax of 0.2 percent of taxable wages to be added to the permanent FUTA tax rate. The temporary surtax subsequently has been extended through 2008. The President’s FY 2009 Budget proposes extending the FUTA surtax. The Treasury Department states that “extending the surtax will support the continued solvency of the Federal unemployment trust funds and maintain the ability of the unemployment system to adjust to any economic downturns.” The bill would enact the President’s proposal for one year (through 2009). *This provision is estimated to raise \$1.474 billion over 10 years.*

**Oil Spill Liability Trust Fund.** The bill would extend the oil spill tax through December 31, 2017, increases the per barrel tax by four cents from the first quarter beginning more than 60 days after date of enactment through October 1, 2014, and by five cents from October 1, 2014 through 2017. The bill also repeals the requirement that the tax be suspended when the

unobligated balance exceeds \$2.7 billion. *This proposal is estimated to raise \$1.715 billion over 10 years.*

**Delay implementation of worldwide allocation of interest.** In 2004, Congress provided taxpayers with an election to take advantage of a liberalized rule for allocating interest expense between United States sources and foreign sources for purposes of determining a taxpayer's foreign tax credit limitation. This election is not available to taxpayers until taxable years beginning after 2010. The bill would delay the phase-in of this new liberalized rule for eight years (for taxable years beginning after 2018). This proposal to delay the implementation of this future tax benefit in order to provide current tax relief has passed the House of Representatives numerous on a bipartisan basis: as part of H.R. 3221 (in May 2008) by a vote of 272-152 (with 45 Republicans joining 227 Democrats — this bill became Public Law 110-289); as part of H.R. 7060 (in September of 2008) by a vote of 257 to 166 (with 30 House Republicans joining 227 Democrats in support), as part of H.R. 6049 (in May 2008) by a vote of 263 to 160 (with 35 House Republicans joining with 228 House Democrats in support), and as part of H.R. 3920 (in October 2007) by a vote of 264 to 157 (with 38 House Republicans joining 226 House Democrats in support). *This proposal is estimated to raise \$22.332 billion over 10 years.*

**Current inclusion of deferred compensation paid by certain tax indifferent parties.** The bill would tax individuals on a current basis if such individuals receive deferred compensation from a tax indifferent party. Current law generally allows executives and other employees to defer paying tax on compensation until the compensation is paid. This deferral is made possible by rules that require the corporation paying the deferred compensation to defer the deduction that relates to this compensation until the compensation is paid. Matching the timing of the deduction with the income inclusion ensures that the executive is not able to achieve the tax benefits of deferred compensation at the expense of the Treasury. Instead, the corporation paying the compensation bears the expense of paying deferred compensation as a result of the deferred deduction. Where an individual is paid deferred compensation by a tax indifferent party (such as an offshore corporation in a tax haven jurisdiction), there is no offsetting deduction that can be deferred. As a result, individuals receiving deferred compensation from a tax indifferent party are able to achieve the tax benefits of deferred compensation at the expense of the Treasury. This proposal previously passed the House of Representatives numerous times: as part of H.R. 7060 (in September of 2008) by a vote of 257 to 166 (with 30 House Republicans joining 227 Democrats in support), as part of H.R. 6049 (in May 2008) by a vote of 263 to 160 (with 35 House Republicans joining with 228 House Democrats in support), as part of H.R. 4351 (in December 2007) by a vote of 226 to 193 (with 226 House Democrats in support), and as part of H.R. 3996 (in November 2007) by a vote of 216 to 193 (with 216 House Democrats in support). *This proposal is estimated to raise \$24.766 billion over 10 years.*