



National Grocers Association

INTRODUCTION

N.G.A. and its independent retail and wholesale grocers won a major victory in passing estate tax relief, preventing a tax increase on the owners of Subchapter S corporations and other pass through entities, and increasing business bonus depreciation and expensing provisions when Congress passed H.R. 4853. This is a brief summary of key Provisions under the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 that will benefit N.G.A. members.

I. ESTATE TAX RELIEF

The hundreds of calls, letters and meetings by N.G.A.'s retailers and wholesalers made passage of this estate tax relief possible. Congratulations on a great grassroots effort.

Temporary estate, gift and generation skipping transfer tax relief. The estate and generation-skipping transfer taxes were fully repealed in 2010, and lowered the gift tax rate to 35 percent and increased the gift tax exemption to \$1 million for 2010.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 bill sets the exemption at \$5 million per person and \$10 million per couple and a top tax rate of 35 percent for the estate, gift, and generation skipping transfer taxes for two years, through 2012. The exemption amount is indexed beginning in 2012. The bill 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 January 1, 2011.** The bill sets a \$5 million generation-skipping transfer tax exemption and zero percent rate for the 2010 year.

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 bill allows the executor of a deceased spouse's estate to transfer any unused exemption to the surviving spouse without such planning. This is effective for estates of decedents dying after December 31, 2010.**

Reunification. The bill reunifies the estate and gift taxes. This is effective for gifts made after December 31, 2010.

I. TEMPORARY EXTENSION OF TAX RELIEF

N.G.A. members successfully stopped the proposed unfair tax increase that would have been imposed on high income people, especially those that operate Sub-chapter S corporations and other business pass through entities.

Reductions in Individual Income Tax Rates

- 1) ***Temporarily extend the 10%, 25%, 28%, 33%, and 35% brackets.*** Under current law, the 10%, 25%, 28%, 33%, and 35% individual income tax brackets expire at the end of 2010. Upon expiration, the rates would become 15%, 28%, 31%, 36%, and 39.6% respectively. **The 10%, 25%, 28%, 33%, and 35% individual income tax brackets are extended for an additional two years, through 2012.**
- 2) ***Temporarily repeal the Personal Exemption Phase-out (PEP).*** The PEP was repealed for 2010. The repeal of PEP is extended for an additional two years, through 2012.
- 3) ***Temporarily repeal the itemized deduction limitation.*** The limitation on itemized deductions for 2010 was repealed. The repeal of the itemized deduction limitation for an additional two years, through 2012.

Capital Gains and Dividends

Temporarily extend the capital gains and dividend rates. The capital gains and dividend rates for taxpayers below the 25% bracket is equal to zero percent and those in the 25% bracket and above, the capital gains and dividend rates are currently 15%. **The bill extends the current capital gains and dividends rates through 2012.**

Two-year AMT patch. Currently, a taxpayer receives an exemption of \$33,750 (individuals) and \$45,000 (married filing jointly) under the AMT. **The bill 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 bill is effective for taxable years beginning after December 31, 2009.

III. TEMPORARY EXTENSION OF INVESTMENT INCENTIVES

In a major accomplishment, N.G.A. retailers and wholesalers can now plan with certainty to use these investment incentives for leasehold improvements.

Extension of bonus depreciation. Congress allowed businesses, beginning January 1, 2008 through December 31, 2009, to take an additional depreciation deduction allowance equal to 50 percent of the cost of the depreciable property placed in service in those years. Under the *Small Business Jobs Act of 2010*, this temporary increase in the depreciation deduction allowance was extended through December 31, 2010. The bill extends and temporarily increases this bonus depreciation provision for investments in new business equipment. **For investments placed in service after September 8, 2010 and through December 31, 2011, the bill provides for 100**

percent bonus depreciation. For investments placed in service after December 31, 2011 and through December 31, 2012, the bill provides for 50 percent bonus depreciation. The provision also allows taxpayers to elect to accelerate some AMT credits in lieu of bonus depreciation for taxable years 2011 and 2012.

Temporarily 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. **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 for expensing and \$2,000,000 for the recapture limit for expensing for the taxable years beginning in 2010 and 2011. The bill extends the 2007 maximum amount and phase-out thresholds for taxable years beginning in 2012, at \$125,000 and \$500,000 respectively, indexed for inflation.** The proposal is effective for taxable years beginning after December 31, 2011.

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.**

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 bill extends for two years (through 2011) the new markets tax credit, permitting a maximum annual amount of qualified equity investments of \$3.5 billion each year. This is effective for calendar years beginning after December 31, 2009.**

IV. TEMPORARY EMPLOYEE PAYROLL TAX CUT

Temporary reduction in employee-paid payroll taxes. Under current law employees pay a 6.2 percent Social Security tax on all wages earned up to \$106,800 (in 2011) and self-employed individuals pay a 12.4 percent Social Security self-employment taxes of on all their self-employment income up to the same threshold. **The bill provides a payroll/self-employment tax holiday during 2011 of two percentage points. This means employees will pay only 4.2 percent on wages and self-employment individuals will pay only 10.4 percent on self-employment income up to the threshold.**