

# The Emergency Economic Stabilization Act of 2008<sup>1</sup>

## (Financial Bailout and Tax Provisions)

### Overview

On October 3, 2008, President Bush signed into law P.L. 110-343, the Emergency Economic Stabilization Act of 2008, the principal parts which are: (1) a \$700 billion financial markets stabilization plan; and (2) \$150 billion in tax benefits, which are partially offset by \$40 billion in revenue-raisers.

KNAV analyzes few important aspects and tax provisions of the Act.

### Executive Compensation Limitations

The bill targets excessive executive compensation of key employees of Financial Institutions benefiting from the bailout. Previously, these covered employees could be paid compensation up to \$1 million, while commissions and performance-based compensation was unlimited. However, now, their compensation - including commissions and performance-based compensation - is limited to \$500,000.

### Golden Parachute Limitations Extended to Bailout Recipients

Under golden-parachute rules, publicly-held corporations could not deduct excessive severance payments to "disqualified individuals" who are usually among the highest paid one percent of employees. The new act extends this restriction to executives of employers participating in the troubled asset-relief program. A non-deductible parachute payment would be subject to excise tax and includes compensation to a covered executives due to severance from employment in the case of an involuntary termination, or employer's bankruptcy, liquidation or receivership.

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### **Extension of Home Mortgage Debt Forgiveness**

The new act extends the provision granting relief to homeowners who discharge mortgage debt on their principal residence for three additional years. The relief provision applies to acquisition indebtedness related to the taxpayer's principal residence, as defined under the home sale exclusion rules of IRS code section 121. Acquisition indebtedness of a principal residence includes debt incurred to acquire or construct the principal residence, as well as refinancing the debt. The excluded amount of forgiven debt will subsequently reduce the basis of the taxpayer's principal residence.

### **Fannie Mae and Freddie Mac Stock Losses**

The act provides for the conversion of capital losses to ordinary losses for certain financial institutions incurring losses on the sale of stock in troubled Fannie Mae and Freddie Mac. This provision allows financial institutions to use capital losses from these investment sales to offset current ordinary income without limitation.

### **Alternative Minimum Tax Relief**

The change in the alternative minimum tax ("AMT") rules include an increase in the exemption amounts that are subtracted from an individual's "alternative minimum taxable income" to determine the taxable amount. The exemption amounts for 2008 are increased to \$69,950 for joint filers, \$46,200 for single filers, and \$34,975 for married taxpayers filing separate returns. The AMT change also permits taxpayers to use all their "non refundable personal credits" in full, to offset both the regular tax and the AMT in 2008.

**The Act also provides extension for most of the Oil, Fuel, Research , Employment and various other credits set to expire for tax years beginning after 2007 and 2008 to tax years beginning in 2008 and 2009.**

## Conclusion

The Act is effective for returns prepared after May 25, 2007, except that in the case of positions with respect to tax shelters and reportable transactions to which § 6662A applies, the Act is effective for returns prepared after October 3, 2008.

The results to the economy of this bailout legislation remain to be seen.

**Source:** BNA / cpa2biz

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**Atlanta** | 3731 Lake Pass Lane, Suwanee GA 30024, USA T : +1 770 831 3574 F: + 1 678 765 2377

**London** | 8/9, Surbiton Business Center, 46, Victoria Road, Surbiton, London KT64JL, UK T: +44 208 390 8092 F: +44 208 390 2721

**Mumbai** | 101 RNA Azzure, Service Road, Bandra (E), Mumbai – 400051, India T: 91 22 2647 0044 F: 91 22 2647 0033

E: [admin@knavcpa.com](mailto:admin@knavcpa.com)

W: [www.knavcpa.com](http://www.knavcpa.com)