



Bailout Legislation Tax Alert for Real Estate Practitioners

Emergency Economic Stabilization Act of 2008 Includes Real Estate Tax Changes

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On October 3, 2008, as a stabilizer to the troubled economy, the President signed into law H.R. 1424,¹ which authorizes the Federal government to purchase and insure certain types of troubled assets, as well as provides tax incentives for energy production and conservation, extends expiring tax provisions, and provides certain individual income tax relief.

Of interest to real estate owners, H.R. 1424 adds or extends several taxpayer-favorable provisions. Among those are:

- The extension of a provision which allows taxpayers who do not itemize their deductions to still deduct up to \$500 of their property taxes (\$1,000 for joint returns). This provision was added to the Internal Revenue Code as a new standard deduction in July 2008, but was only effective for the 2008 year. The new legislation extends that provision to include the 2009 year also.²
- Several provisions providing relief to victims of federally declared disasters. Included in this relief are (i) a liberalization of the amount deductible as a casualty loss resulting from such disasters, (ii) a new disaster loss deduction, allowing taxpayers who do not itemize their deductions to deduct a disaster loss as part of their standard deduction, and (iii) a new provision which allows an immediate deduction, rather than capitalization, of disaster-caused damages on business property.³
- A three-year extension of the provision which excludes from taxation a taxpayer's debt relief income from the discharge of a home mortgage. As originally enacted, this exclusion was available only for debt discharged in 2007 through 2009. The new legislation extends that to debt discharged before January 1, 2013.⁴
- More favorable depreciation for certain real estate improvements, including qualified retail improvements.⁵
- The deduction for certain environmental clean-up costs, which expired at the end of 2007, has been extended through 2009.⁶

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¹ H.R. 1424, P.L. 110-374.

² H.R. 1424, Division C Section 204.

³ H.R. 1424, Division C Sections 706(a), (b), (c), 707.

⁴ H.R. 1424, Division A Section 303, amending I.R.C. § 108(a)(1)(E).

⁵ H.R. 1424, Division C Section 305(c), adding I.R.C. § 168(e)(3)(E)(ix) and § 168(e)(8).

⁶ H.R. 1424, Division C Section 318, amending I.R.C. § 198(h).