



**Legislative Bulletin.....December 19, 2007**

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**H.R. 3996**—Senate Amendment to the Temporary Tax Relief Act

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(Rangel, D-NY)**

**Order of Business:** On November 9, 2007, the House [passed](#) the Temporary Tax Relief Act (H.R. 3996), which, appropriately named, would provide temporary AMT tax relief for some (the AMT “patch”) and permanent tax increases for others. The Senate took up the House-passed bill, stripped out the tax increases, and [passed](#) a “clean” AMT “patch.” However, the Senate had refused to send the papers for the amended H.R. 3996 back to the House, fearing that the House would just add back tax increases. Therefore, Ways & Means Chairman Charles Rangel (D-NY) introduced a new bill, [H.R. 4351](#) and attached tax increases to the AMT “patch.” The House passed H.R. 4351 by a vote of [226-193](#) on December 12<sup>th</sup>.

Senate Majority leader Harry Reid (D-NV) has indicated that an AMT “patch” bill with tax increases attached will not pass the Senate. On December 18<sup>th</sup>, the Senate failed to attach the text of H.R. 4351 to the omnibus appropriations bill for FY2008 (H.R. 2764) by a vote of [48-46](#) (60 votes needed).

Today, the House will motion to concur in the Senate amendment to H.R. 3996 (i.e. the “clean” AMT patch without offsets), subject to a closed rule that waives PAYGO. The consideration of this rule is itself subject to the passage of [H.Res. 876](#), a “same-day” rule waiving the two-thirds-vote requirement to consider special rules on the House floor the same legislative day they are reported from the Rules Committee. This same-day rule would cover AMT legislation, as well as legislation for the continuing resolution and the omnibus.

Despite press reports to the contrary, the rule for the “clean” AMT patch today will **NOT** create a point of order in the House against the consideration of any future AMT-relief or tax-extenders legislation unless a law has been enacted to offset the “cost” of today’s AMT patch.

**Background:** The AMT was created in 1969 as a [mandatory](#) add-on to the existing tax code to prevent 155 of the very wealthiest taxpayers from lowering their tax bills using the available deductions and credits. The AMT’s reach has since grown dramatically through bracket creep.

The AMT has a two-tiered rate structure, 26% and 28%, and an exemption, so that most people do not currently pay the AMT (which is always a higher tax than the tax calculated under the regular tax system).

Unlike other exemptions in the tax code, the AMT exemption (currently \$45,000 for joint returns in tax-year 2007) is not adjusted for inflation. As a result, though meant for the wealthiest of taxpayers, 3.5 million taxpayers were subject to the AMT in 2006, and tax organizations estimate that **23 million taxpayers may be subject to the AMT in 2007.**

Another important reason the AMT is negatively impacting more and more taxpayers is the 1993 tax increase, written by a Democrat Congress and signed into law by President Clinton. The Democrats raised the then-24% rate to 26% on the first \$175,000 of AMT-taxable income above the exemption and 28% on the AMT-taxable income in excess of \$175,000.

**Summary, as amended by the Senate:** H.R. 3996, as amended by the Senate, would place a one-year “patch” on the exemption level for the Alternative Minimum Tax (AMT). Specifically, H.R. 3996 would provide for a \$66,250 AMT exemption amount for married couples in 2007 (it was \$62,550 in 2006, and would drop to \$45,000 without a “patch”), for a \$44,350 exemption amount for singles (it was \$42,500 in 2006, and would drop to \$33,750 without a “patch”), and for the current-law relief for nonrefundable personal AMT credits.

The bill would save taxpayers \$50.59 billion over ten years, most of that in the first year, with no corresponding offsets of any kind.

**NOTE:** House language preventing taxpayers with AMT credits from paying tax on “phantom” income attributable to incentive stock options (i.e. income that appears on paper but that the taxpayer has not actually exercised) was NOT retained in the Senate-amended bill. This language, proposed by Reps. Sam Johnson (R-TX) and Chris Van Hollen (D-MD), and included in the House-passed versions of H.R. 3996 and H.R. 4351, would have saved taxpayers \$2.26 billion over ten years. It is unclear why the Senate removed it.

**RSC Bonus Fact:** In 1999, the Republican Congress sent legislation to the President fully repealing the AMT, yet President Clinton vetoed that bill.

**Committee Action:** On October 30, 2007, the bill was referred to the Ways & Means Committee, which, on November 2<sup>nd</sup>, marked up and ordered it referred to the full House by a vote of 22-13.

**Conservative Concern for the Future:** While conservatives are unified in wanting to “patch” the AMT without tax increases, most conservatives believe the better option is to repeal it altogether, since patching just sets up the need for another fix sometime soon. In this case, H.R. 3996 would patch the AMT for tax-year 2007, but as soon as Congress returns in 2008, it will need to start thinking about how to prevent a massive tax increase under the AMT for tax-year 2008. Repealing the AMT would avoid this ongoing problem and save taxpayers billions of dollars immediately and thereafter.

The RSC has offered an AMT-repeal and taxpayer choice bill, [H.R. 3818](#), which would: 1) prevent automatic tax increases by immediately and completely repealing the AMT, 2) make permanent the current tax rates on capital gains and dividends, and 3) give taxpayers the option of paying their income taxes under a massively simplified tax system with lower rates and no special deductions. The RSC bill would not raise taxes on anyone at any time.

**Administration Position:** The Administration supports “patching” the AMT without tax increases.

**Cost to Taxpayers:** The Senate-amended bill would prevent tax increases of \$50.59 billion over ten years, most of that in the first year, with no corresponding offsets of any kind.

**Does the Amended Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Amended Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Amended Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** The Ways & Means Committee, in [House Report 110-431](#), asserts that, “Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Ways and Means Committee has determined that the bill as reported contains no congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of that rule.” The reported bill contained the language in the Senate-amended bill.

**Constitutional Authority:** The Ways & Means Committee, in [House Report 110-431](#), cites constitutional authority in Article I, Section 8, Clause 1 (the congressional power to lay and collect taxes, duties, imposts, and excises to pay the debts and provide for the common defense and general welfare of the United States) and the 16<sup>th</sup> Amendment (the congressional power to tax incomes).

**Outside Organizations:** All conservative tax groups have called for an AMT “patch” without tax increases and are thus supportive of this legislation, as amended by the Senate.

**RSC Staff Contact:** Paul S. Teller, [paul.teller@mail.house.gov](mailto:paul.teller@mail.house.gov), (202) 226-9718