

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is a darker shade of blue. The hourglass is centered on the page.

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The Alternative Minimum Tax for Individuals: Legislative Activity in the 110th Congress

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CRS Report for Congress

The Alternative Minimum Tax for Individuals: Legislative Activity in the 110th Congress

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Summary

The alternative minimum tax (AMT) for individuals was originally enacted to ensure that all taxpayers, especially high-income taxpayers, pay at least a minimum amount of federal taxes. However, the AMT is not indexed for inflation, and this factor, combined with recent reductions in the regular income tax, has greatly expanded the potential impact of the AMT. Temporary provisions intended to mitigate the effects of the AMT expired at the end of 2006, and Congress worked throughout 2007 to enact an AMT “patch.” The patch for the 2007 tax year, as provided for in the *Tax Increase Prevention Act of 2007* (P.L. 110-166), enacted on December 26, 2007, set the AMT exemption levels for 2007 at \$66,250 for joint filers and \$44,350 for single filers.

The AMT exemption amounts for the 2008 tax year would have been \$45,000 for joint filers and \$33,750 for single filers without a patch. On October 3, 2008, the House approved and the President signed H.R. 1424, the Emergency Economic Stabilization Act of 2008 (P.L. 110-343), which patched the AMT for 2008 without an offset. The act increases the AMT exemption amount to \$69,950 for joint filers and \$46,200 for individuals.

This report will be updated as legislative action warrants.

Introduction

In 1969, after a number of high-visibility television, magazine, and news stories about a relatively small number of extremely wealthy individuals who paid virtually no income taxes, the alternative minimum tax (AMT) for individuals was enacted to ensure

that all taxpayers pay at least a minimum amount of federal taxes.¹ It was designed so that individuals could not take unfair advantage of the various preferences and incentives under the regular income tax to substantially reduce their regular income tax liability below what was considered appropriate for their income level. The AMT functions as a parallel tax system to the regular income tax. Taxpayers calculate their regular income tax and then calculate their AMT. If their AMT liability is larger than their regular income tax liability, then they pay the AMT.

There is projected to be a significant increase in the number of middle- to upper-middle-income taxpayers affected by the AMT in the near future. In 2006, about 4.2 million taxpayers were subject to the AMT. If not for the patch provided in P.L. 110-166, enacted on December 26, 2007, up to 23 million taxpayers would have been subject to the AMT in 2007.² For the 2008 tax year, 25.7 million taxpayers would have been affected by the AMT if not for the patch in P.L. 110-343.³

There are two main reasons for an increase in the number of taxpayers affected by the AMT. First, the regular income tax is indexed for inflation, but the AMT is not. Over time, this has reduced the differences between regular income tax liabilities and AMT liabilities at any given nominal income level, differences that will continue to shrink in the absence of AMT indexation. The second reason is that the 2001 and 2003 reductions in the regular income tax have further narrowed the differences between regular and AMT tax liabilities. The combination of these two factors means that, absent legislative changes, there will be significant growth in the number of taxpayers affected by the AMT.

Since 1998, the effects of the AMT have been mitigated through temporary provisions allowing certain personal tax credits to offset AMT liability and temporary increases in the basic exemption for the AMT. The Tax and Trade Relief Extension Act of 1998 allowed taxpayers to use nonrefundable personal tax credits in full against their regular income tax even though the use of the credits might reduce a taxpayer's regular income tax liability below their AMT liability.⁴

The Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16, EGTRRA) temporarily increased the AMT exemption amounts from \$45,000 to \$49,000 for joint returns and from \$33,750 to \$35,750 for unmarried individuals with the changes effective for tax years between 2001 and 2004.

The Job Creation and Worker Assistance Act of 2002 (P.L. 107-147) extended the temporary provisions, first enacted in 1998 and then extended in 1999, that allowed

¹ There is also a corporate minimum tax, but it is not addressed in this report.

² U.S. Congress, Joint Committee on Taxation, *Present Law and Background Relating to the Individual Alternative Minimum Tax*, JCX-38-07, June 25, 2007.

³ Joint Committee on Taxation, June 25, 2007.

⁴ For more detailed information on which taxpayers will be affected by the AMT, see CRS Report RS22200, *The Potential Distribution Effects of the Alternative Minimum Tax*, by Steven Maguire; and CRS Report RS22083, *Alternative Minimum Taxpayers By State: 2005, 2006, and Projections for 2008*, by Steven Maguire.

individuals to use all personal tax credits against both their regular and AMT tax liabilities. This change was effective through December 31, 2003.

The Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108-27, JGTRRA) increased the basic AMT exemption amount to \$58,000 for joint returns and to \$40,250 for unmarried taxpayers. These increases were in effect for tax years 2003 and 2004. JGTRRA also established that the new maximum tax rate of 15% applicable to capital gains and dividend income under the regular income tax would also apply to the taxation of capital gains and dividend income under the AMT.

The Working Families Tax Relief Act of 2004 (P.L. 108-311, WFTRA) extended through 2005 JGTRRA's increase in the basic AMT exemption amounts. WFTRA also extended the provision allowing nonrefundable personal tax credits to offset both regular and AMT tax liability in full for taxable years 2004 and 2005.

The American Jobs Creation Act of 2004 (P.L. 108-357) made several changes to the AMT. It coordinated farmer and fisherman income averaging with the AMT so that the use of income averaging did not push taxpayers into the AMT. It repealed the 90% limitation on the use of the AMT foreign tax credit. The act also allowed the credits for alcohol used as a fuel and electricity produced by renewable resources to be used in full against the AMT.

Legislative Action in the 109th Congress

In May 2006, Congress approved the Tax Increase Prevention and Reconciliation Act of 2005 (P.L. 109-222, TIPRA) that included a one-year extension (through 2006) of both the AMT's personal-credit and increased-exemption provisions. For 2005, the exemption amount was \$58,000 for joint returns and \$40,250 for unmarried taxpayers. TIPRA increased the 2006 AMT exemption to \$62,550 for joint returns and \$42,500 for unmarried taxpayers.

In December 2006, Congress passed the Tax Relief and Health Care Act of 2006 (P.L. 109-432). This act included a provision making the AMT tax credit refundable. Under the act, taxpayers can claim an AMT refundable credit amount that is the greater of (1) the lesser of \$5,000 or the unused minimum credit, or (2) 20% of the unused minimum credit. The unused credit is the credit attributable to tax years prior to the previous three years. The AMT refundable credit is reduced for taxpayers with adjusted gross incomes in excess of certain threshold amounts. (For joint returns in 2007, the threshold is \$234,600.) This provision applies to tax years beginning before January 1, 2013.

Legislative Action in the 110th Congress

The FY2009 budget compromise, S.Con.Res. 70, which includes an offset AMT patch, passed the Senate on June 4, 2008, and the House on June 5, 2008. The House approved H.R. 6275 on June 25, 2008, as reported. On September 23, 2008, the Senate approved H.R. 6049, which includes an AMT patch without an offset and extensions of a variety of expiring tax provisions that would be partially offset. On September 24, 2008, the House approved H.R. 7005, which would patch the AMT for 2008. On October

3, 2008, the House passed and the President signed H.R. 1424, the Emergency Economic Stabilization Act of 2008 (P.L. 110-343), which patched the AMT for 2008 without an offset. The act increases the AMT exemption amount to \$69,950 for joint filers and \$46,200 for individuals for tax year 2008. The Joint Committee on Taxation estimated that the one-year patch would cost \$61.8 million over the 2009 to 2018 budget window.⁵

Earlier in the 110th Congress, the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 (H.R. 2206) was enacted on May 25, 2007, and allowed the tax credits for the work opportunity credit and the credit for taxes paid with respect to employee cash tips to be used in full against both the corporate and individual alternative minimum taxes. The Tax Increase Prevention Act of 2007 (P.L. 110-166), enacted on December 26, 2007, set the 2007 AMT exemption levels at \$66,250 for joint filers and \$44,350 for single filers and allows nonrefundable personal credits to offset AMT liability. **Table 1** presents an abbreviated chronology of the legislative action resulting in the AMT patch (P.L. 110-166) for the 2007 tax year; **Table 2** does the same for the 2008 tax year.

Table 1. Votes on the 2007 Patch for the AMT in the 1st Session of the 110th Congress

Date	Vehicle	Vote	Vote Description and Result
5/17/2007	S.Con.Res. 21	House Vote 377	Fiscal 2008 Budget Resolution - Conference Report Among other things, this resolution called for a one-year patch for the AMT. Adopted (thus sent to the Senate) by a vote of 214-209.
5/17/2007	S.Con.Res 21	Senate Vote 172	Fiscal 2008 Budget Resolution - Conference Report Among other things, this resolution called for a one-year patch for the AMT. Adopted by a vote of 52-40.
5/17/2007	H.R. 2206 P.L. 110-28	Senate Vote	U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007. Among other things, this legislation included a waiver of individual and corporate AMT limits on the work opportunity tax credit and credit for taxes paid with respect to employee cash tips. Passed Senate by voice vote.
11/1/2007	H.R. 3996	Committee Vote	Temporary Tax Relief Act/Vote to Report. The bill would allow taxpayers to apply nonrefundable personal credits against the AMT in 2007. The bill would also increase the AMT exemption amount to \$66,250 for joint filers and \$44,350 for individuals. These provisions provided for a one-year patch for the AMT. The bill also extended several expiring tax provisions for one year. The bill expanded the eligibility for the refundable child tax credit by setting the threshold for the credit at \$8,500. To offset the cost of the measure, the bill included provisions intended to raise revenue, such as taxing the carried interest of private equity managers, venture capitalists, and some real estate investors up to 35% instead of the current 15%. Reported favorably out of the committee (as amended) 22-13.

⁵ U.S. Congress, Joint Committee on Taxation, *Estimated Budget Effects of the Tax Provisions Contained in an Amendment in the Nature of a Substitute to H.R. 1424*, JCX-78-08, Oct. 1, 2008.

Date	Vehicle	Vote	Vote Description and Result
11/9/2007	H.R. 3996	House Vote 1081	Alternative Minimum Tax Adjustment — Passage. The bill provided a one-year patch for the AMT. It also extended several expiring tax provisions for one year. The bill expanded the eligibility for the refundable child tax credit by setting the threshold for the credit at \$8,500. To offset the cost of the measure, the bill included provisions intended to raise revenue, such as taxing the carried interest of private equity managers, venture capitalists, and some real estate investors up to 35% instead of the current 15%. Passed 216-193.
12/6/2007	H.R. 3996	Senate Vote 414	Alternative Minimum Tax Adjustment — Cloture. Motion to invoke cloture (thus limiting debate) on the Reid, D-Nev., motion to proceed with a vote on H.R. 3996 as passed by the House. Motion rejected 46-48.
12/6/2007	H.R. 3996 S.Amdt. 3804	Senate Vote 415	Alternative Minimum Tax Adjustment — Passage. Passage of a one-year AMT patch. Before passage, the Senate adopted by voice vote the Baucus, D-Mont., substitute amendment no. 3804 that dropped the tax offsets and other non-AMT tax reduction extenders contained in the House bill. Passed 88-5.
12/12/2007	H.R. 4351	House Vote 1153	Alternative Minimum Tax Adjustment — Passage. Passage of the bill that would provide a one-year patch for the AMT in 2007. In addition, the bill would expand the eligibility in 2008 for the refundable child tax credit by setting the threshold for the credit at \$8,500. The other tax cuts included in the original bill passed by the House on Nov. 9 were dropped from this bill. To offset the costs of the AMT patch, the bill would limit a number of tax breaks, including the ability of taxpayers to use offshore arrangements for deferred compensation by including it in gross income and taxing it on a current basis. Passed 226-193.
12/19/2007 Enacted 12/26/2007	H.R. 3996 P.L. 110-166	House Vote 1183	Alternative Minimum Tax Adjustment — Passage. Rangel, D-N.Y., motion to suspend the rules and concur with the Senate amendment (S.Amdt. 3804) to the bill that would provide a one-year patch for the AMT in 2007 without offsets. The bill allows taxpayers to apply nonrefundable personal credits against the AMT in 2007. The bill increases the AMT exemption amount to \$66,250 for joint filers and \$44,350 for individuals. Motion agreed to, 352-64.

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Table 2. Votes on the 2008 Patch for the AMT in the 2nd Session of the 110th Congress

Date	Vehicle	Vote	Vote Description and Result
3/13/2008	H.Con.Res. 312 (House FY2009 Budget Resolution)	House Vote 141	Fiscal 2009 Budget Resolution Among other things, this resolution calls for a one-year patch for the AMT, which must be offset. Passed 212-207.

Date	Vehicle	Vote	Vote Description and Result
3/14/2008	S.Con.Res. 70 (Senate FY2009 Budget Resolution)	Senate Vote 85	Fiscal 2009 Budget Resolution Among other things, this resolution calls for a one-year patch for the AMT, which is not offset. Passed 51-44.
6/04/2008 and 6/05/2008	S.Con.Res. 70 (the final version of FY2009 budget agreement)	Senate Vote 142 House Vote 382	Among other things, this resolution calls for a one-year patch for the AMT, which must be offset. Passed Senate 48-45; Passed House 214-210.
6/10/2008	H.R. 6049	Senate Vote 147 on Cloture Rejected	The Sen. Baucus substitute version of the legislation would patch the AMT for 2008 and extend several tax provisions for one year. The tax extenders would be offset; the AMT patch would not be offset. Cloture vote on motion to proceed to H.R. 6049 rejected 50-44.
6/17/2008	H.R. 6049	Senate Vote 150 on Cloture Rejected	The Sen. Baucus substitute version of the legislation would patch the AMT for 2008 and extend several tax provisions for one year. The tax extenders would be offset; the AMT patch would not be offset. Cloture vote on motion to proceed to H.R. 6049 rejected 52-44.
6/18/2008	H.R. 6275	Committee Vote	Rep. Charles Rangel's bill would allow nonrefundable personal tax credits to offset AMT tax liability and would increase the AMT exemption amounts to \$69,950 for joint returns and \$46,200 for single returns. The patch is offset. These changes would be effective for one year, 2008.
6/25/2008	H.R. 6275	House Vote 455	Rep. Charles Rangel's bill providing for an offset AMT patch was approved 233-189.
9/23/2008	H.R. 6049	Senate Vote 205	The legislation would patch the AMT for 2008 and extend several tax provisions for one year. The tax extenders would be partially offset; the AMT patch would not be offset. H.R. 6049 was approved 93-2.
9/24/2008	H.R. 7005	House Vote 634	The legislation would patch the AMT for 2008 and is not offset. H.R. 7005 was approved 393-30.
10/1/2008	H.R. 1424	Senate Vote 213	The legislation would patch the AMT for 2008 and extend several tax provisions without an offset. H.R. 1424 was approved 74-25.
10/3/2008 Enacted 10/3/2008	H.R. 1424 P.L. 110-343	House Vote 681	The legislation would patch the AMT for 2008 and extend several tax provisions without an offset. The bill allows taxpayers to apply nonrefundable personal credits against the AMT in 2008. The bill increases the AMT exemption amount to \$69,950 for joint filers and \$46,200 for individuals. H.R. 1424 was approved 263-171.