



TREASURY DEPARTMENT PROVIDES DETAILS OF THE OBAMA ADMINISTRATION'S TAX CHANGE PROPOSALS AFFECTING INDIVIDUALS

On May 4, 2009, the Obama Administration released a summary of its tax change proposals. On May 11, 2009, the Treasury Department issued the General Explanations of the Administration's Fiscal Year 2010 Revenue Proposals (the "Green Book") to provide details of the Administration's tax change proposals. The proposed changes summarized below, if enacted, would have significant impacts on individuals with higher income and individuals who have interest in or authority over foreign financial accounts.

- *Sunset of the 2001 Tax Cuts.* Several tax cuts enacted in 2001 will sunset after 2010. The Obama Administration proposed to allow the tax cuts to expire as scheduled and permanently extend the prior tax provisions affected by those tax cuts. For example:
 - The highest two marginal income tax rates (35% and 33% at present) would return to 39.6% and 36% beginning in 2011. The proposal would apply the 36% rate to taxable income above \$250,000 for married taxpayers filing jointly (or \$200,000 for single filers) less standard deduction and two (or one for single filers) personal exemptions, indexed for inflation from 2009.
 - Currently, itemized deductions for 2009 would be subject to a reduction by 1% of a threshold amount (the amount by which the adjusted gross income exceeded a statutory floor), and no reduction for 2010. Under the proposal, after 2010 the reduction would revert to 3% for married taxpayers filing jointly with a threshold of \$250,000 (or \$200,000 for single taxpayers), indexed from 2009 for inflation. In addition, the Obama Administration's proposal would limit all itemized deductions to offset income only at 28%.
 - The tax rate on long-term capital gains and qualified dividends, currently at 15%, would revert to 20% for taxpayers with income above \$250,000 for married couples filing jointly (or \$200,000 for individual filers) less standard deduction and two (or one for single filers) personal exemptions, indexed from 2009 for inflation.
- *Reporting of Foreign Financial Accounts.* The Obama Administration's proposal would seek to strengthen the information reporting obligations regarding foreign financial accounts. Under current law, U.S. persons who have an interest in or authority over one or more foreign financial accounts must report that interest on a Report of Foreign Bank and Financial Account ("FBAR") for each year during which the aggregate value of all such accounts exceeds \$10,000. U.S. persons who directly or indirectly own more than 50% of a corporation, partnership, or trust that owns a foreign financial account are also required to file the FBAR. The proposal would require reporting on income tax returns any transfer to or from a foreign financial account, as well as disclosing on income tax returns certain information if the taxpayer must file an FBAR. The proposal would also establish certain evidentiary presumptions when the taxpayer fails to file the FBARs.

The Obama Administration's proposals described in the Green Book are far-reaching. It is difficult to predict what measures would eventually be enacted as proposed by the Administration.

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