



December 22, 2010

ABA offers over 30 free E-Bulletins to all employees of ABA Members. Click [here](#) for more information.

HOT TOPICS

Tax Cut Bill Extends Expiring Provisions

On December 17th, President Obama signed into law the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010. The key impetus for the legislation was an extension of (1) expiring unemployment benefits and (2) expiring tax cuts. However, the bill also extended a number of other expiring tax provisions. Following is a list of some of the provisions of particular interest to employers:

- **Federal Unemployment Benefits** – Extends benefits for an additional 13 months, through December 2011, and maintains the current cap of 99 weeks of total benefits.
- **"Make Work Pay" Credit** – Terminates the credit and replaces it with a 1-year payroll tax reduction that will reduce the employee share of the FICA payroll tax by almost one-third, by 2 percentage points – down to 4.2 percent. Read [IRS guidance](#) on the 2011 payroll tax table.
- **Employer Wage Credit for Active Military Reservists** – Extends for two years through 2011 the provision that provides eligible small business employers (employers with 50 or fewer employees) with a credit against the taxpayer's income tax liability for a taxable year in an amount equal to 20 percent of the sum of differential wage payments to activated military reservists.
- **Work Opportunity Tax Credit (WOTC)** – Extends through 2011 the provision that allows employers to claim a work opportunity tax credit equal to 40 percent of the first \$6,000 of wages paid to new hires of one of nine targeted groups. The credit is available for employees hired after date of enactment. These groups include members of families receiving benefits under the Temporary Assistance to Needy Families (TANF) program, qualified veterans, designated community residents, and others.
- **Employer Adoption Tax Credit** – Extends to 2012 the provision that allows employers to exclude from income adoption expenses paid by an employer. EGTRRA increased the credit from \$5,000 (\$6,000 for a special needs child) to \$10,000, and provided a \$10,000 income exclusion for employer-assistance programs. The Patient Protection and Affordable Care Act of 2010 extended these benefits to 2011 and made the credit refundable.
- **Employer-Provided Child Care Credit** – Extends through 2012 the credit of 25 percent for childcare expenses and 10 percent for child care resources (not totaling more than \$150,000) for acquiring, constructing, rehabilitating or expanding property which is used for a child care facility.
- **Expansion of Employer-Provided Mass Transit and Parking Benefits** – Allows employers to reimburse employees for transit-related fringe benefits up to \$230 per month.
- **Employer-Provided Education Assistance** – Temporarily extends through 2012 authority for employees to use up to \$5,250 in employer-provided tuition assistance – tax-free – for graduate, undergraduate or certificate level education and training.
- **Deductible Education Expenses** – Allows assistance from certain scholarship programs to be excluded from income. Qualified tuition reductions for certain education provided to employees are also excludable from income.

DOL Concedes that Mortgage Loan Originator Overtime Ruling Applies "Prospectively"

In an amicus brief filed by the Department of Labor in the case of Henry vs. Quicken Loans in the United States District Court of Eastern Michigan, the Department stated for the first time that its March 2010

interpretation that mortgage loan originators are not eligible for the administrative exemption from overtime compensation applies only “prospectively.” This concession means that DOL does not believe that its Administrator's Interpretation No. 2010-1 gives rise to retroactive liability under the Fair Labor Standards Act.

DOL was ordered by the presiding judge in the Quicken Loans case to file a friend-of-the-court brief explaining its interpretation. In that brief, DOL asserted that its 2010 interpretation “unambiguously represents a substantive change in the Department's interpretation of its administrative exemption regulations in determining whether mortgage loan officers are exempt administrative employees. As such, [it] applies only prospectively, and therefore creates no unfair surprise.” ABA and other trade associations responded by seeking permission to file their own friend-of-the-court brief in the Quicken Loans case to present the industry's view of the interpretation. [Read the DOL brief.](#) [Read ABA's brief.](#)

The ABA HR Issues & Resources information e-mail is a service of the American Bankers Association. **ABA Members:** To unsubscribe and to manage your subscriptions, please visit [ABA E-Mail Bulletins](#) and check or uncheck the appropriate boxes. If you have questions, call Cristeena Naser, Senior Counsel at (202) 663-5332, or send an e-mail to cnaser@aba.com.

American Bankers Association, 1120 Connecticut Ave. NW, Washington DC 20036