

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The alternative minimum tax (AMT) for individuals was originally enacted to ensure that all taxpayers, especially high-income taxpayers, pay at least a minimum amount of federal taxes.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 the 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. In the last two months of 2007, legislative activity intended to “fix” the AMT intensified.

On November 9, 2007, the House approved H.R. 3996, legislation that, among other things, would set the 2007 AMT exemption levels at \$66,250 for joint returns and \$44,350 for single returns. In addition, this bill would allow nonrefundable personal tax credits to offset AMT tax liability for 2007. The House-passed legislation included revenue offsets for the AMT patch and the other tax cut extenders included in the bill. On December 6, 2007, the Senate passed its version of H.R. 3996 that included only the one-year patch for the AMT with no revenue offsets or other tax cut extenders.

On December 12, 2007, the House approved H.R. 4351, legislation that sets the AMT exemptions at the same levels as H.R. 3996, but does not include the other tax cut extenders. H.R. 4351 includes revenue offsets similar, but not identical to, those in H.R. 3996. On December 19, 2007, the House passed the Senate-amended version of H.R. 3996 (P.L. 110-166, enacted on December 26, 2007), which did not include revenue offsets or tax extenders.

The AMT exemption amounts for the 2008 tax year revert to \$45,000 for joint filers and \$33,750 for single filers. Without a patch, roughly 26 million taxpayers will be affected by the AMT in 2008. The Administration’s FY2009 budget includes an AMT patch for the 2008 tax year and would allow all personal credits against AMT liability.

This report will be updated as legislative action warrants.

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

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 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 are projected to be affected by the AMT absent congressional action.³

There are two main reasons for the 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.⁴

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 RS21817, *The Alternative Minimum Tax (AMT): Income Entry Points and "Take Back" Effects*, by Gregg Esenwein; CRS Report RS22200, *The Potential Distribution Effects of the Alternative Minimum Tax*, by Gregg Esenwein and Steven Maguire; and CRS Report RS22083, *Alternative Minimum Taxpayers By State: 2003, 2004, and Projections* (continued...)

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.

The Economic Growth and Tax Relief Reconciliation Act of 2001 (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 extended the temporary provisions, first enacted in 1998 and then extended in 1999, that allowed 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 (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 (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 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.

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In May 2006, Congress approved the *Tax Increase Prevention and Reconciliation Act of 2005* (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. According to estimates by the Joint Committee on Taxation, the one-year cost of these AMT provisions was \$33.9 billion.

⁴ (...continued)

for 2007, by Gregg Esenwein and Steven Maguire.

In December 2006, Congress passed the *Tax Relief and Health Care Act of 2006*. 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.

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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 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** summarizes all legislative proposals affecting the AMT introduced in the 110th Congress.

Table 1. Votes on the 2007 Patch for the Alternative Minimum Tax in the First Session of the 110th Congress

Date	Vehicle	Vote	Vote Description and Result (D: Democrat; R: Republican; I: Independent)
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: R 0-196; D 214-13
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: R 2-40; D 48-0; I 2-0.
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.

Date	Vehicle	Vote	Vote Description and Result (D: Democrat; R: Republican; I: Independent)
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 to the full House (as amended) 22-13: R 0-13; D 22-0; I 0-0.
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: R 0-185; D 216-8.
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: R 0-47; D 44-1; I 2-0.
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: R 46-0; D 40-5; I 2-0.
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: R 0-190; D 226-3.
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: R 195-0; D 157-64.

Table 2. Other AMT Legislation in the 110th Congress

Bill	Sponsor	Effect on AMT
S. 55 Jan. 4, 2007	Sen. Max Baucus Sen. Chuck Grassley	Repeals the AMT effective for tax years after 2006.
S. 102 Jan. 4, 2007	Sen. John Kerry	Increases the basic AMT exemption and allows personal tax credits to offset AMT liability. Offsets part of the cost of these changes by repealing, in 2009 and 2010, the lower tax rates on dividends and capital gains income.
S. 590 Feb. 14, 2007	Sen. Gordon Smith	Allows the investment tax credit for solar energy property and qualified fuel cell property against the AMT.
S. 614 Feb. 15, 2007	Sen. Charles Schumer	Increases the basic AMT exemption for tax years 2007 and 2008. Permits personal tax credits to offset AMT liabilities.
S. 734 Mar. 1, 2007	Sen. Arlen Specter	Reduces the AMT tax rate to 24%.
S. 1040 Mar. 29, 2007	Sen. Richard Shelby	Among other things, this bill repeals the AMT.
S. 1111 Apr. 16, 2007	Sen. Ron Wyden	Among other things, this bill repeals the AMT.
S. 14 Apr. 17, 2007	Sen. Jon Kyl	Repeals the AMT effective in 2007.
S. 1405 May 16, 2007	Sen. Sam Brownback	Repeals the individual AMT effective in 2008.
S. 1851 July 23, 2007	Sen. Jeff Sessions	Indexes the AMT for inflation and allows personal exemptions under the AMT.
S. 1855 July 23, 2007	Sen. Chuck Grassley	Provides relief from penalty for failure to pay estimated taxes attributable to the AMT.
S. 1875 July 25, 2007	Sen. Jim DeMint	Repeals the AMT effective in 2007.
H.R. 370 Jan. 10, 2007	Rep. Geoff Davis	Allows certain coal to liquid fuel tax credits to be applied against the AMT.
H.R. 550 Jan. 18, 2007	Rep. Michael McNulty	Allows the investment tax credit for solar energy property and qualified fuel cell property against the AMT.
H.R. 1112 Feb. 16, 2007	Rep. Thomas Reynolds	Increases the basic AMT exemption to \$66,400 for joint returns and \$45,100 for unmarried taxpayers. Allows personal tax credits to offset AMT liabilities in full.
H.R. 1366 Mar. 7, 2007	Rep. Phil English	Repeals the AMT starting in 2007.
H.R. 1591 Mar. 20, 2007	Rep. David Obey	Makes permanent the allowance for the work opportunity tax credit and the credit for taxes paid with respect to employee tips to offset AMT liability. Passed by the House and the Senate, but was vetoed by President Bush on May 1, 2007.
H.R. 1869 Apr. 17, 2007	Rep. Nydia Velázquez	Repeals the AMT starting in 2008.
H.R. 1923 Apr. 18, 2007	Rep. Kevin McCarthy	Increases and indexes the basic exemption for the AMT. Increases the point at which the basic exemption is phased-out.
H.R. 1942 Apr. 19, 2007	Rep. Scott Garrett	Allows deductions for state and local taxes against AMT. Indexes the basic AMT exemption.
H.R. 2253 May 9, 2007	Rep. Edward Royce	Reduces the AMT tax rate to 24%.

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Bill	Sponsor	Effect on AMT
H.R. 2318 May 15, 2007	Rep. Robert Andrews	Allows state and local property taxes to be deducted from the AMT tax base.
H.R. 2691 June 12, 2007	Rep. Timothy Walz	Allows the tax credit for electricity produced from wind facilities against the AMT.
H.R. 2748 June 15, 2007	Rep. Rodney Frelinghuysen	Allows the alternative motor vehicle tax credit against the AMT.
H.R. 2776 June 27, 2007	Rep. Charles Rangel	Allows certain energy tax credits against the AMT.
H.R. 2902 June 28, 2007	Rep. Thomas Allen	For 2007 and 2008, increases the AMT exemption and allows all personal tax credits against the AMT.
H.R. 2983 July 10, 2007	Rep. Anthony Weiner	Eliminates the AMT for taxpayers with adjusted gross incomes (AGIs) under \$100,000 for unmarried taxpayers and \$200,000 for married taxpayers.
H.R. 3486 Sept. 6, 2007	Rep. Brad Ellsworth	Creates new mine safety credit, revises the credit for mine rescue team training, and allows these credits against the AMT.
H.R. 3726 Oct. 2, 2007	Rep. Baron Hill	Allows real property tax on the principal residence to be deducted by non-itemizers and allows this deduction against the AMT.
H.R. 3590 Sept. 19, 2007	Rep. Nick Lampson	Extends the AMT tax relief provisions through 2007.
H.R. 3818 Oct. 10, 2007	Rep. Paul Ryan	Repeals the AMT. Allows taxpayers to pay their regular income tax or pay taxes under a new simplified tax system.
H.R. 3861 Oct. 16, 2007	Rep. Chris Van Hollen	Increases the AMT refundable credit amount for individuals with unused credits for prior years minimum tax liability.
H.R. 3953 Oct. 24, 2007	Rep. Tim Mahoney	Allows a deduction for property taxes in the determination of AMT taxable income.
H.R. 3970 Oct. 25, 2007	Rep. Charles Rangel	Among other things, for 2007, this bill would provide for increased/indexed AMT exemption amounts and would allow nonrefundable personal credits to offset AMT liabilities. For years after 2007, the AMT would be repealed as part of a fundamental restructuring of the individual and corporate tax systems.
H.R. 3996 Oct. 30, 2007	Rep. Charles Rangel	Among other things, this bill allows nonrefundable personal tax credits to offset AMT tax liability and increases the AMT exemption amounts to \$66,250 for joint returns and \$44,350 for single returns. These changes would be effective for one year, 2007.
H.R. 4351 Dec. 11, 2007	Rep. Charles Rangel	Among other things, this bill allows nonrefundable personal tax credits to offset AMT tax liability and increases the AMT exemption amounts to \$66,250 for joint returns and \$44,350 for single returns. These changes would be effective for one year, 2007.
H.R. 5031 Jan. 17, 2008	Rep. Thomas M. Reynolds	Amends the Internal Revenue Code to extend relief from the alternative minimum tax. Extends the increased alternative minimum tax exemption amount beginning in 2008, and the alternative minimum tax relief for nonrefundable personal credits beginning in 2008.
H.R. 5105 Jan. 23, 2008	Rep. David Dreier	Indexes alternative minimum tax amounts for inflation beginning in tax year 2008.
S.Con.Res. 21 May 17, 2007	n/a	House and Senate adopted the FY2008 budget resolution. The resolution calls for a one-year patch for the AMT.
S. 2293 Nov. 1, 2007	Sen. Trent Lott	Among other things, this bill would repeal the individual AMT.
S. 2318 Nov. 7, 2007	Sen. John Ensign	Among other things, this bill would repeal the individual AMT.
S. 2389 Nov. 16, 2007	Sen. John Kerry	This bill would increase the amount of the AMT refundable credit from 20% to 50% and remove the income phaseouts for the credit.

Bill	Sponsor	Effect on AMT
S. 2416 Dec. 5, 2007	Sen. Jim DeMint	Repeals the current AMT and replaces it with an alternative tax that taxpayers have the option to pay instead of their regular income tax.
S. 2517 Dec. 18, 2007	Sen. Gordon H. Smith	Amends the Internal Revenue Code to exempt tax-exempt interest on qualified mortgage or veterans' mortgage bonds issued before 2011 from the alternative minimum tax.
S. 2547 Jan. 23, 2008	Sen. Christopher S. Bond	Indexes alternative minimum tax amounts for inflation beginning in tax year 2008.

Administration's Proposals

The Administration's FY2009 budget proposal includes a one-year patch for the AMT. The Administration's proposal would increase the basic AMT exemption to \$70,050 for joint returns and \$46,250 for unmarried taxpayers. It would also allow all nonrefundable personal tax credits to offset AMT liability in full. These changes would be effective for 2008 only. The estimated federal revenue loss from this proposal is \$58.4 billion for the FY2008 to FY2010 budget window.