

## RECOVERY AND REINVESTMENT

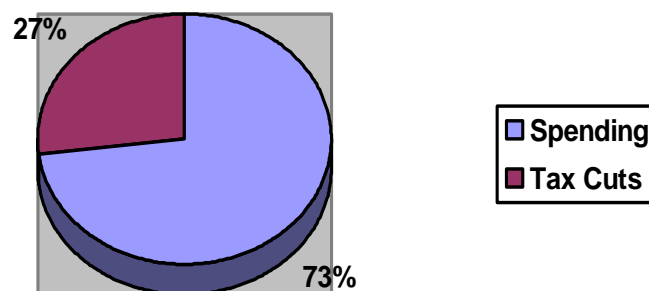
By Kevin F Reilly, JD, CPA

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*“Recession is when a neighbor loses his job. Depression is when you lose yours.”*  
 -Ronald Reagan

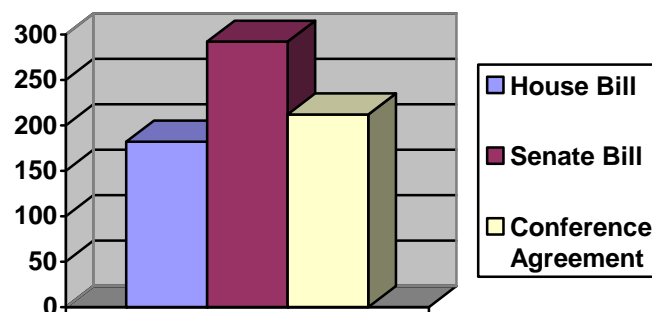
Normally, in the April column, we discuss some of the tax issues impacting the hospitality industry. This year is no exception. However, while the size of the recently enacted **American Recovery and Reinvestment Act of 2009** is unprecedented, the business tax breaks are not large in the grand scheme of things and few will benefit hospitality directly. In fact, the lodging industry as a whole was disproportionately impacted by some of the moves made during the enactment of the bill. Part of the Act restricts corporate travel for companies accepting bailout money. In addition, whether receiving any funds or not, companies are canceling or scaling back conferences to avoid an image of conspicuous consumption. Combining a decline in corporate travel with a reduction in leisure travel ensures that the hospitality industry will have a difficult 2009.

Presidents are often graded on the first 100 days. While President Obama may have had grand plans in many areas, the economy forced a reconsideration of priorities. It is difficult to fathom that during the summer of 2008, economists were still discussing whether we were in a recession. The size of the recovery package was **reduced** to \$787 billion dollars during conference. You might think that is an astronomical number but, to put it into perspective, scientists think there are only 100 billion stars in the galaxy. Almost 75 percent of the bill deals with new spending or the provision of aid for government programs, including an increase in jobless benefits. The chart (#3) shows that the net cost of the business provisions over ten years is only(?) \$6.1 billion; while the cost over the first four years is \$60.5 billion with additional taxes coming back into the Treasury later.



The amount provided in the three versions of the bill fluctuated wildly when it came to tax cuts. The argument that getting money directly into the hands of the people would give a more immediate stimulus did not carry the day. The House and the Senate differed by almost \$100 billion dollars in the tax area. The final bill drastically reduced the largest corporate tax break that was being considered. A net operating loss (NOL) is the excess of gross income over income in a particular tax year. Generally, the loss may be carried back two years and forward 20. With so many businesses experiencing losses in 2008 and potentially 2009, Congress wanted to get the money into the hands of the businesses quicker. As such, it originally increased the carry back period to five years. Unfortunately, the benefit is now available only to businesses with gross receipts of \$15 million or less and only from the 2008 year. Manufacturers and retailers particularly were vocal on the “gutting” of the provision.

**Tax Cuts (in Billions)**



Several other business provisions survived the process. Last year, Congress provided certain incentives to invest during 2008. It did this by allowing business to recover the costs of capital expenditures made during 2008 faster than what normally would be the case through depreciation. The Act extended the ability of business to write off 50% of the cost of qualifying depreciable property purchased and placed into service during 2009. It also extends the ability of small businesses to expense completely the purchase of certain assets. For 2009, small business may write off qualifying equipment purchases up to 250,000 and the phase out remains at \$800,000 for the year. Additional provisions include:

- Incentives to hire unemployed veterans and disconnected youth;
- Extensions of certain credits;
- Delayed recognition of certain cancellation of debt income;
- Changes to qualified small business stock rules; and,
- Shortening the holding period of assets for built-in-gain purposes for S corporations.

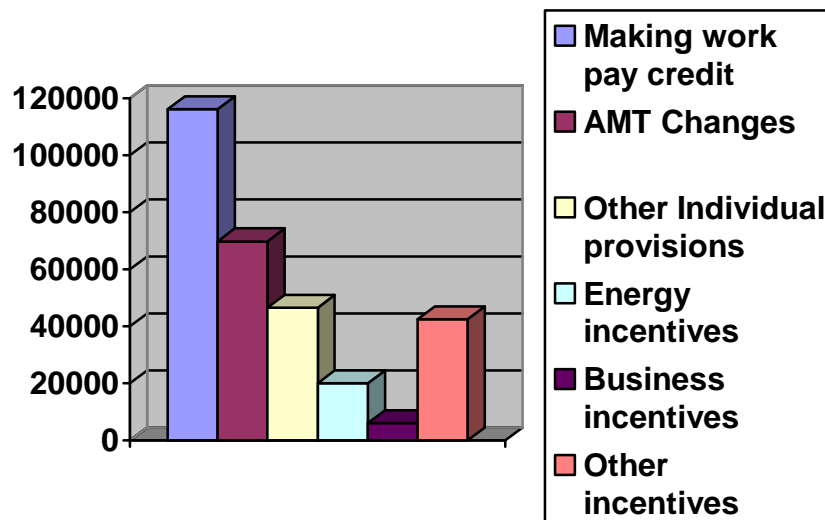


However, since the business provisions are limited, it may be more important for the hospitality industry if the law results in an increase in consumer confidence. Last year, the incentive bill sent checks to individuals ranging from \$300- \$1200, depending on whether you were single or a couple and whether you worked. This year's bill also provides for a credit for working individuals, as well as an increase in the earned income credit. Last year's money did not encourage consumer spending and unless confidence increases, it is unlikely that this year's will either. However, the expansion of the credit for first time home buyers and the tax break for new car purchasers may provide some relief for some of the most battered industries.

The individual provision that will impact the most people is the patch to the alternative minimum tax provision to hold the number of people subject to the AMT consistent with prior years. The exemption amount is increased to \$46,700 for individuals and \$70,950 for joint returns. Unfortunately as economist Nigel Gault stated, "telling people you're not going to impose a tax increase on them they weren't expecting in the first place is not stimulus." Congress continues to apply patches to the AMT problem since it cannot seem to come up with a solution that will not cost billions of dollars.

One complaint about the economic recovery legislation is that it does not get the money into the economy quick enough and that some of the provisions are long term rather than immediate. The question now becomes what happens if the stimulus does not work. Economists have already lowered forecast for the second quarter and a second half 2009 recovery is looking less likely... and we do not even want to talk about the impact on the deficit.

### Budget effects of tax provisions over 10 years (in millions of dollars)



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