PRESENT LAW AND BACKGROUND DATA RELATED TO THE INDIVIDUAL INCOME AND SOCIAL INSURANCE TAXES AS IN EFFECT FOR 2010 AND 2011

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of the
JOINT COMMITTEE ON TAXATION

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INTRODUCTION

This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a summary of the present-law Federal tax system with respect to the individual income tax and social insurance taxes, as in effect for 2010 and 2011. The changes in 2011 primarily reflect sunset provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") and the Jobs and Growth Tax Relief Reconciliation Act of 2003 ("JGTRRA") as well as the expiration of provisions contained in the American Recovery and Reinvestment Tax Act of 2009 ("ARRTA").

The current Federal tax system has four main elements: (1) an income tax on individuals and corporations (which consists of both a "regular" income tax and an alternative minimum tax); (2) social insurance taxes on wages (and corresponding taxes on self-employment income); (3) estate, gift, and generation-skipping transfer taxes, and (4) excise taxes on selected goods and services. This document provides a broad overview of the first two of these elements, excluding the corporate income tax.

In addition to the expiration of temporary provisions of Federal tax law, a number of aspects of the Federal tax laws are subject to change over time. For example, some dollar amounts and income thresholds are indexed for inflation. The standard deduction and tax rate brackets are examples of amounts that are indexed for inflation. The amount of earnings subject to the Social Security tax is adjusted annually for wage growth. In general, the Internal Revenue Service adjusts these numbers annually and publishes the inflation-adjusted amounts in effect for a tax year prior to the beginning of that year. Where applicable, this document generally includes dollar amounts in effect for 2010 (or as estimated to be in effect for 2011) and notes whether dollar amounts are indexed for inflation.

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[1] This document may be cited as follows: Joint Committee on Taxation, *Present Law and Background Data Related to the Individual Income and Social Insurance Taxes as in Effect for 2010 and 2011* (JCX-1-10), January 13, 2010. This document can be found on the website at www.jct.gov.

I. SUMMARY OF PRESENT-LAW INDIVIDUAL INCOME TAX

A. Individual Income Tax for 2010

In general

An income tax is imposed on individual citizens and residents of the United States.[2] The tax is based on an individual's taxable income. An individual computes his or her taxable income by reducing gross income by the sum of (i) the deductions allowable in computing adjusted gross income, (ii) the standard deduction (or itemized deductions, at the election of the taxpayer), and (iii) the deduction for personal exemptions. Graduated tax rates are then applied to a taxpayer's taxable income to determine his or her income tax liability. Lower rates apply to net capital gain and qualified dividend income. A taxpayer may also be subject to an alternative minimum tax. A taxpayer may reduce his or her income tax liability by certain tax credits.

Gross income

Gross income means "income from whatever source derived" other than certain items specifically excluded from gross income. Sources of gross income generally include, among other things, compensation for services, interest, dividends, capital gains, rents, royalties, alimony and separate maintenance payments, annuities, income from life insurance and endowment contracts (other than certain death benefits), pensions, gross profits from a trade or business, income in respect of a decedent, and income from S corporations, partnerships,[3] and trusts or estates.[4] Exclusions from gross income include death benefits payable under a life insurance contract, interest on certain tax-exempt State and local bonds, employer-provided health insurance, employer-provided pension contributions, and certain other employer-provided benefits.

Adjusted gross income

An individual's adjusted gross income ("AGI") is determined by subtracting certain allowable deductions from gross income. These deductions are known as "above-the line" deductions. These deductions are generally the deductions incurred to produce gross income. For example, these deductions include trade or business deductions (other than certain

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[2] Foreign tax credits generally are available against U.S. income tax imposed on foreign source income to the extent of foreign income taxes paid on that income. A nonresident alien generally is subject to the U.S. individual income tax only on income with a sufficient nexus to the United States.

[3] In general, partnerships and S corporations are treated as pass-through entities for Federal income tax purposes. Thus, no Federal income tax is imposed at the entity level. Rather, income of these entities is passed through and taxed to the partners and shareholders.

[4] In general, estates and trusts (other than grantor trusts) pay an individual income tax on the taxable income of the estate or trust. Items of income which are distributed or required to be distributed under governing law or under the terms of the governing instrument generally are included in the income of the beneficiary and not the estate or trust. These entities determine their tax liability using a special tax rate schedule and may be subject to the alternative minimum tax. Certain trusts are treated as being owned by grantors in whole or in part for tax purposes; in such cases, the grantors are taxed on the income of the trust.

deductions for services performed as an employee), losses from the sale or exchange of property, deductions attributable to rents and royalties, contributions to pensions and other retirement plans, alimony payments, and moving expenses.

Taxable income

In order to determine taxable income, a taxpayer reduces AGI by any personal exemption deductions and either the applicable standard deduction or the taxpayer's itemized deductions. Personal exemptions generally are allowed for the taxpayer, his or her spouse, and any dependents. For 2010, the amount deductible for each personal exemption is $3,650. This amount is indexed annually for inflation. For 2010, the deduction for personal exemptions is not reduced or eliminated for taxpayers with incomes over certain thresholds. A taxpayer also may reduce AGI by the amount of the applicable standard deduction. The basic standard deduction varies depending upon a taxpayer's filing status. For 2010, the amount of the standard deduction is $5,700 for single individuals and married individuals filing separate returns, $8,400 for heads of households, and $11,400 for married individuals filing a joint return and surviving spouses. An additional standard deduction is allowed with respect to any individual who is elderly or blind.[5] The amounts of the basic standard deduction and the additional standard deductions are indexed annually for inflation.

Table 1.−Personal Exemption and Basic Standard Deduction for 2010

Personal Exemption	$3,650
Basic Standard Deduction:	
Single and married filing separately	$5,700
Head of household	$8,400
Married filing jointly	$11,400

In lieu of taking the applicable standard deductions, an individual may elect to itemize deductions. The deductions that may be itemized include State and local income taxes, real property and certain personal property taxes, home mortgage interest, charitable contributions, certain investment interest, medical expenses (in excess of 7.5 percent of AGI), casualty and theft losses (in excess of $100 per loss and in excess of 10 percent of AGI), and certain miscellaneous expenses (in excess of two percent of AGI). For 2010, the total amount of itemized deductions allowed is not reduced for taxpayers with incomes over a certain threshold amount.

[5] For 2010, the additional amount is $1,100 for married taxpayers (for each spouse meeting the applicable criterion) and surviving spouses. The additional amount for single individuals and heads of households is $1,400. If an individual is both blind and aged, the individual is entitled to two additional standard deductions, for a total additional amount (for 2010) of $2,200 or $2,800, as applicable.

Tax liability

In general

A taxpayer's net income tax liability is the greater of (1) regular individual income tax liability reduced by credits allowed against the regular tax, or (2) tentative minimum tax reduced by credits allowed against the minimum tax. The amount of income subject to tax is determined differently under the regular tax and the alternative minimum tax, and separate rate schedules apply. Lower rates apply for long-term capital gains and qualified dividend income; those rates apply for both the regular tax and the alternative minimum tax.

Regular tax liability

To determine regular tax liability, a taxpayer generally must apply the tax rate schedules (or the tax tables) the taxpayer's regular taxable income. The rate schedules are broken into several ranges of income, known as income brackets, and the marginal tax rate increases as a taxpayer's income increases. Separate rate schedules apply based on an individual's filing status. For 2010, the regular individual income tax rate schedules are as follows:

Table 2.–Federal Individual Income Tax Rates for 2010

If taxable income is:	Then income tax equals:
Single Individuals	
Not over $8,375	10% of the taxable income
Over $8,375 but not over $34,000	$837.50 plus 15% of the excess over $8,375
Over $34,000 but not over $82,400	$4,681.25 plus 25% of the excess over $34,000
Over $82,400 but not over $171,850	$16,781.25 plus 28% of the excess over $82,400
Over $171,850 but not over $373,650	$41,827.25 plus 33% of the excess over $171,850
Over $373,650	$108,421.25 plus 35% of the excess over $373,650

Heads of Households

Not over $11,950	10% of the taxable income
Over $11,950 but not over $45,550	$1,195 plus 15% of the excess over $11,950
Over $45,550 but not over $117,650	$6,235 plus 25% of the excess over $45,550
Over $117,650 but not over $190,550	$24,260 plus 28% of the excess over $117,650
Over $190,550 but not over $373,650	$44,672 plus 33% of the excess over $190,550
Over $373,650	$105,095 plus 35% of the excess over $373,650

Married Individuals Filing Joint Returns and Surviving Spouses

Not over $16,750	10% of the taxable income
Over $16,750 but not over $68,000	$1,675 plus 15% of the excess over $16,750
Over $68,000 but not over $137,300	$9,362.50 plus 25% of the excess over $68,000
Over $137,300 but not over $209,250	$26,687.50 plus 28% of the excess over $137,300
Over $209,250 but not over $373,650	$46,833.50 plus 33% of the excess over $209,250
Over $373,650	$101,085.50 plus 35% of the excess over $373,650

Married Individuals Filing Separate Returns

Not over $8,375	10% of the taxable income
Over $8,375 but not over $34,000	$837.50 plus 15% of the excess over $8,375
Over $34,000 but not over $68,650	$4,681.50 plus 25% of the excess over $34,000
Over $68,650 but not over $104,625	$13,343.75 plus 28% of the excess over $68,650
Over $104,625 but not over $186,825	$23,416.75 plus 33% of the excess over $104,625
Over $186,825	$50,542.75 plus 35% of the excess over $186,825

Alternative minimum tax liability

An alternative minimum tax is imposed on an individual, estate, or trust in an amount by which the tentative minimum tax exceeds the regular income tax for the taxable year. The tentative minimum tax is the sum of (1) 26 percent of so much of the taxable excess as does not exceed $175,000 ($87,500 in the case of a married individual filing a separate return) and (2) 28 percent of the remaining taxable excess. The taxable excess is so much of the alternative minimum taxable income ("AMTI") as exceeds the exemption amount. The maximum tax rates on net capital gain and dividends used in computing the regular tax are also used in computing the tentative minimum tax. AMTI is the taxpayer's taxable income increased by the taxpayer's "tax preference items" and adjusted by redetermining the tax treatment of certain items in a manner that negates the deferral of income resulting from the regular tax treatment of those items.

The exemption amounts for 2010 are: (1) $45,000 in the case of married individuals filing a joint return and surviving spouses; (2) $33,750 in the case of unmarried individuals other than surviving spouses; (3) $22,500 in the case of married individuals filing separate returns; and (4) $22,500 in the case of an estate or trust.[6] The exemption amounts are phased out by an amount equal to 25 percent of the amount by which the individual's AMTI exceeds (1) $150,000 in the case of married individuals filing a joint return and surviving spouses, (2) $112,500 in the case of other unmarried individuals, and (3) $75,000 in the case of married individuals filing separate returns or an estate or a trust. These amounts are not indexed for inflation.

Among the preferences and adjustments applicable to the individual alternative minimum tax are accelerated depreciation on certain property used in a trade or business, circulation expenditures, research and experimental expenditures, certain expenses and allowances related to oil and gas and mining exploration and development, certain tax-exempt interest income, and a portion of the amount of gain excluded with respect to the sale or disposition of certain small business stock. In addition, personal exemptions, the standard deduction, and certain itemized deductions, such as State and local taxes and miscellaneous deductions items, are not allowed to reduce alternative minimum taxable income.

Special capital gains and dividends rates

In general, gain or loss reflected in the value of an asset is not recognized for income tax purposes until a taxpayer disposes of the asset. On the sale or exchange of a capital asset, any gain generally is included in income. Any net capital gain of an individual is taxed at maximum rates lower than the rates applicable to ordinary income. Net capital gain is the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for the year. Gain or loss is treated as long-term if the asset is held for more than one year.

Capital losses generally are deductible in full against capital gains. In addition, individual taxpayers may deduct up to $3,000 of capital losses from ordinary income in each year. Any remaining unused capital losses may be carried forward indefinitely to another taxable year.

Maximum tax rates apply to capital gains and certain qualified dividends. For 2010, the maximum rate of tax on the adjusted net capital gain of an individual is 15 percent. In addition,

[6] The exemption amounts for 2009 were: (1) $70,950 in the case of married individuals filing a joint return and surviving spouses; (2) $46,700 in the case of unmarried individuals other than surviving spouses; (3) $35,475 in the case of married individuals filing separate returns; and (4) $35,475 in the case of an estate or trust.

any adjusted net capital gain otherwise taxed at a 10- or 15-percent rate is taxed at a zero-percent rate. These rates apply for purposes of both the regular tax and the alternative minimum tax.

These rates also apply to qualified dividend income.

Credits against tax

The individual may reduce his or her tax liability by any available tax credits. For example, tax credits are allowed for certain business expenditures, certain foreign income taxes paid or accrued, certain elderly or disabled individuals, certain child care expenditures, certain adoption expenses, the earned income tax credit ("EITC") for low-income workers who satisfy certain requirements, the child tax credit, and the credit for certain health care expenses. Additional tax credits include: the making work pay tax credit, the "American opportunity tax credit") and a tax credit for certain first-time homebuyers. Tax credits allowed against the regular tax are not uniformly allowed against the alternative minimum tax.

A brief description of the most widely used credits follows.

Earned income tax credit.−The amount of the EITC varies depending upon the taxpayer's earned income and whether the taxpayer has one, two, more than two, or no qualifying children. In 2010, the maximum EITC is $5,666 for taxpayers with more than two qualifying children, $5,036 for taxpayers with two qualifying children, $3,050 for taxpayers with one qualifying child, and $457 for taxpayers with no qualifying children. The EITC is phased out along certain phase-out ranges. For 2010, the phase-out range is $7,480 to $13,460 for no qualifying children, $16,450 to $35,535 for one qualifying child, $16,450 to $40,363 for two qualifying children, and $16,450 to $43,352 for three or more qualifying children. For 2010, the phase-out thresholds for married couples filing a joint return is increased by $5,010.

Child tax credit.−For 2010, the child tax credit generally is $1,000 but is phased-out for individuals with income over certain thresholds. For 2010, the child tax credit is refundable up to the greater of (1) 15 percent of the taxpayer's earned income in excess of $3,000; or (2) for families with three or more children, the amount by which the taxpayer's social security taxes exceed the taxpayer's earned income.

Health coverage tax credit.−The health coverage tax credit[7] is a refundable tax credit for a taxpayer who is an eligible individual. For 2010, the credit is equal to 80 percent of the premiums paid by the taxpayer for months of eligible coverage under qualified health insurance of the taxpayer and qualifying family members. The credit is available on an advance basis through a program established and administered by the Treasury Department. In general, eligible individuals are individuals who receive a trade adjustment allowance (and individuals who would be eligible to receive such an allowance but for the fact that they have not exhausted their regular unemployment benefits), individuals eligible for the alternative trade adjustment assistance program, and individuals over age 55 who receive pension benefits from the Pension Benefit Guaranty Corporation. For 2010, family members of Medicare eligible individuals are eligible for the credit for 24 months after certain events that otherwise terminate eligibility for the credit, including the taxpayer's entitlement to Medicare Part A or enrollment in Medicare Part

[7] Sec. 35.

B, the death of the taxpayer who was the eligible individual, or divorce between the eligible individual and the individual's spouse.

Making work pay tax credit.−The making work pay tax credit for 2010 is equal to the lesser of (1) 6.2 percent of the individual's earned income, or (2) $400 ($800 in the case of a joint return). The credit is phased out at a rate of two percent of the eligible individual's modified adjusted gross income above $75,000 ($150,000 in the case of a joint return).

American opportunity tax credit.−For 2010 the credit is equal to up to $2,500 per eligible student per year for qualified tuition and related expenses paid for each of the first four years of the student's post-secondary education in a degree or certificate program. Also, the credit is phased out ratably for taxpayers with adjusted gross income between $80,000 and $90,000 ($160,000 and $190,000 for married taxpayers filing a joint return). Forty percent of the otherwise allowable credit is refundable for 2010.

First-time homebuyer tax credit.−A refundable first-time homebuyer tax credit is allowed equal to the lesser of $8,000 ($4,000 for a married individual filing a separate return) or 10 percent of the purchase price of a principal residence. Certain long-term residents of the same principal residence are treated as eligible for the first-time homebuyer credit. In the case of the long-time resident of the same principal residence, the maximum refundable credit allowed is equal to the lesser of $6,500 ($3,250 for a married individual filing a separate return) or 10 percent of the purchase price of a principal residence. The credit is allowable only for certain purchases before May 1, 2010 (before July 1, 2010 with respect to written binding contracts before May 1, 2010).

B. Individual Income Tax for 2011[8]

Adjusted gross income

There are no significant changes to the calculation of gross income and adjusted gross income between 2010 and 2011.

Taxable income

Taxable income will rise in 2011 for most taxpayers due to lower basic standard deduction amounts and the re-imposition of limits on personal exemptions and many itemized deductions.

For 2011, the amount deductible for each personal exemption is $3,750. This amount is indexed annually for inflation. For 2011, the deduction for personal exemptions is reduced or eliminated for taxpayers with incomes over certain thresholds, which are indexed annually for inflation.[9] The applicable thresholds for 2011 are $171,000 for single individuals, $256,700 for married individuals filing a joint return and surviving spouses, $213,900 for heads of households, and $128,350 for married individuals filing separate returns. A taxpayer also may reduce AGI by the amount of the applicable standard deduction. The basic standard deduction varies depending upon a taxpayer's filing status. For 2011, the amount of the standard deduction is $5,800 for single individuals, $8,600 for heads of households, and $9,750 for married individuals filing a joint return and surviving spouses, and $4,875 for married filing separate returns. An additional standard deduction is allowed with respect to any individual who is elderly or blind.[10] The amounts of the basic standard deduction and the additional standard deductions are indexed annually for inflation.

[8] The dollar amounts for 2011 in this section, which represent inflation adjustments are the estimates by the staff of the Joint Committee on Taxation based on Congressional Budget Office baseline inflation estimates.

[9] This is commonly called the personal exemption phase-out ("PEP").

[10] For 2011, the additional amount is $1,150 for married taxpayers (for each spouse meeting the applicable criterion) and surviving spouses. The additional amount for single individuals and heads of households is $1,450. If an individual is both blind and aged, the individual is entitled to two additional standard deductions, for a total additional amount (for 2011) of $2,300 or $2,900, as applicable.

Table 3.−Personal Exemption and Basic Standard Deduction for 2011

Personal Exemption	$3,750
Basic Standard Deduction:	
Married filing separately	$4,875
Single	$5,800
Head of household	$8,600
Married filing jointly	$9,750

In lieu of taking the applicable standard deductions, an individual may elect to itemize deductions. For 2011, the total amount of most itemized deductions allowed is reduced for taxpayers with incomes over a certain threshold amount, which is indexed annually for inflation.[11] Certain itemized deductions are not reduced (i.e., medical expenses, investment income, theft and casualty losses and gambling losses. The threshold amount for 2011 is $171,000 ($85,550 for married individuals filing separate returns).

Tax liability

Regular tax liability

In general, the calculation of regular tax liability between 2010 and 2011 remains unchanged except for the significant exception of the individual income tax rates as set forth below.

Table 4.–Federal Individual Income Tax Rates for 2011

If taxable income is:	Then income tax equals:
Single Individuals	
Not over $34,850	15% of the taxable income
Over $34,850 but not over $84,350	$5227.50 plus 28% of the excess over $34,850
Over $84,350 but not over $176,000	$19,087.50 plus 31% of the excess over $84,350
Over $176,000 but not over $382,650	$47,499 plus 36% of the excess over $176,000
Over $382,650	$121,893 plus 39.6% of the excess over $382,650

[11] This limitation is commonly called the "Pease" limitation.

Heads of Households

Not over $46,650	15% of the taxable income
Over $46,650 but not over $120,500	$6,997.50 plus 28% of the excess over $46,650
Over $120,500 but not over $195,150	$27,675.50 plus 31% of the excess over $120,500
Over $195,150 but not over $382,650	$50,817 plus 36% of the excess over $195,150
Over $382,650	$118,317 plus 39.6% of the excess over $382,650

Married Individuals Filing Joint Returns and Surviving Spouses

Not over $58,200	15% of the taxable income
Over $58,200 but not over $140,600	$8,730 plus 28% of the excess over $58,200
Over $140,600 but not over $214,250	$31,802 plus 31% of the excess over $140,600
Over $214,250 but not over $382,650	$54,633.50 plus 36% of the excess over $214,250
Over $382,650	$115,257.50 plus 39.6% of the excess over $382,650

Married Individuals Filing Separate Returns

Not over $29,100	15% of the taxable income
Over $29,100 but not over $70,300	$4,365 plus 28% of the excess over $29,100
Over $70,300 but not over $107,125	$15,901 plus 31% of the excess over $70,300
Over $107,125 but not over $191,325	$27,316.75 plus 36% of the excess over $107,125
Over $191,325	$57,628.75 plus 39.6% of the excess over $191,325

Alternative minimum tax liability

The rates and exemption amounts for 2010 remain unchanged for 2011

Special capital gains and dividends rates

Maximum tax rates apply to capital gains. For 2011, the maximum rate of tax on the adjusted net capital gain of an individual is 20 percent (18 percent for property purchased after 2000 and held more than five years). In addition, any adjusted net capital gain otherwise taxed at a 15-percent rate is taxed at a 10-percent rate (8 percent for property held more than five years). These rates apply for purposes of both the regular tax and the alternative minimum tax. Qualified dividend income is taxed at regular tax rates. These provisions will result in higher taxes on both capital gains and dividends in 2011.

Credits against tax

The individual may reduce his or her tax liability by any available tax credits. For example, tax credits are allowed for certain business expenditures, certain foreign income taxes paid or accrued, certain elderly or disabled individuals, certain child care expenditures, certain adoption expenses, the earned income tax credit ("EITC") for low-income workers who satisfy certain requirements, the child tax credit, and the credit for certain health care expenses. Additional tax credits include: the making work pay tax credit, the "American opportunity tax credit") and a tax credit for certain first-time homebuyers. Tax credits allowed against the regular tax are not uniformly allowed against the alternative minimum tax.

A brief description of the most widely used credits follows. The expiration of part or all of these tax credits will increase tax liability for 2011.

Earned income tax credit.−The amount of the EITC varies depending upon the taxpayer's earned income and whether the taxpayer has one, more than two, or no qualifying children. The various income thresholds that determine the amount of the credit are indexed to inflation. In 2011, the maximum EITC is projected to be $5,100 for taxpayers with two or more qualifying children, $3,089 for taxpayers with one qualifying child, and $463 for taxpayers with no qualifying children. The EITC is phased out along certain phase-out ranges. For 2011, the phase out range is projected to be $7,580 to $13,630 for no qualifying children, $16,660 to $35,990 for one qualifying child, and $16,660 to $40,880 for two or more qualifying children. For 2011, the phase-out thresholds for married couples filing a joint return are not increased.

Child tax credit.−For 2011, the child tax credit generally is $500 but is phased-out for individuals with income over certain thresholds. For 2011, the child tax credit is refundable for families with three or more children, to the extent by which the amount by which the taxpayer's social security taxes exceed the taxpayer's earned income.

Health coverage tax credit.−For months after December 31, 2010, the health coverage tax credit is reduced from 80 percent to 65 percent of the cost of qualified health insurance paid by an eligible individual. Certain other provisions with respect to the credit cease to apply for months after December 31, 2010, including, for example, the provision allowing family members to be eligible for the credit for 24 months after certain events that otherwise terminate eligibility for the credit.[12]

Making work pay tax credit.−The making work pay tax credit is not available for 2011.

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[12] Secs. 1899 to 1899H of the American Recovery and Reinvestment Act (Pub. Law No. 111-5) made certain changes to the provisions for the health coverage tax credit which only apply to months before January 1, 2011.

American opportunity tax credit.−The American opportunity tax credit expires after 2010 and the HOPE credit resumes its place after the American opportunity tax credit's expiration. For 2011, the HOPE credit can be up to $1,800 per eligible student per year for qualified tuition and related expenses paid for each of the first two years of the student's post-secondary education in a degree or certificate program. For 2011, the credit is phased out ratably for taxpayers with adjusted gross income between $51,000 and $61,000 ($102,000 and $122,000 for married taxpayers filing a joint return). The otherwise allowable credit is not refundable for 2011.

First-time homebuyer credit.−The first-time homebuyer tax credit is not available for 2011.

II. SUMMARY OF SOCIAL INSURANCE TAXES

A. Taxable Year 2010

Social security benefits and certain Medicare benefits are financed primarily by payroll taxes on covered wages. The Federal Insurance Contributions Act ("FICA") imposes tax on employers based on the amount of wages paid to an employee during the year. The tax imposed is composed of two parts: (1) the old age, survivors, and disability insurance ("OASDI") tax equal to 6.2 percent of covered wages up to the taxable wage base ($106,800 in 2010); and (2) the Medicare hospital insurance ("HI") tax amount equal to 1.45 percent of covered wages. In addition to the tax on employers, each employee is subject to FICA taxes equal to the amount of tax imposed on the employer. The employee level tax generally must be withheld and remitted to the Federal government by the employer.

As a parallel to FICA taxes, the Self-Employment Contributions Act ("SECA") imposes taxes on the net income from self employment of self employed individuals. The rate of the OASDI portion of SECA taxes is equal to the combined employee and employer OASDI FICA tax rates and applies to self employment income up to the FICA taxable wage base. Similarly, the rate of the HI portion is the same as the combined employer and employee HI rates and there is no cap on the amount of self employment income to which the rate applies.[13]

In addition to FICA taxes, employers are subject to a Federal unemployment insurance payroll tax ("FUTA") equal to 6.2 percent of the total wages of each employee (up to $7,000) on covered employment. Employers are eligible for a Federal credit equal to 5.4 percent for State unemployment taxes. For 2010, the current 0.8 percent average tax rate (i.e., 6.2 minus 5.4) is composed of a permanent tax rate of 0.6 percent and a temporary surtax rate of 0.2 percent. Federal unemployment insurance payroll taxes are used to fund programs maintained by the States for the benefit of unemployed workers.

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[13] For purposes of computing net earnings from self employment, taxpayers are permitted a deduction equal to the product of the taxpayer's earnings (determined without regard to this deduction) and one-half of the sum of the rates for OASDI (12.4 percent) and HI (2.9 percent), i.e., 7.65 percent of net earnings. This deduction reflects the fact that the FICA rates apply to an employee's wages, which do not include FICA taxes paid by the employer, whereas the self-employed individual's net earnings are economically equivalent to an employee's wages plus the employer share of FICA taxes.

B. Taxable Year 2011

The temporary FUTA surtax rate of 0.2 percent expires after the first six months of 2011.[14]

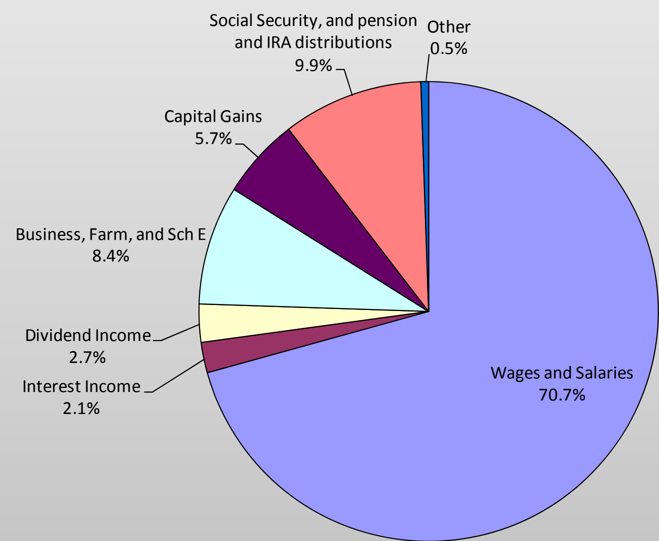
[14] Pub. L. No. 111-92.

III. BACKGROUND DATA

General background data

Figure 1, below, shows the distribution of the sources of gross income for all individual taxpayers for 2010. Wages and salaries are the largest single component, accounting for over 70 percent of gross income. Social security payments and pension and individual retirement arrangement ("IRA") distributions represent the next largest source of income, accounting for just under 10 percent of the total.

Figure 1.–Sources of Gross Income for All Individual Taxpayers 2010



Source: Office of Management and Budget and Congressional Budget Office.

Figure 2, below, shows receipts as a percentage of Gross Domestic Product ("GDP") from 1934 to the present, including projections through 2019 from the August 2009 CBO baseline of present law receipts. The drop in receipts as a percent of GDP in 2009 and 2010 to 14.8 percent and 16.2 percent, respectively, reflects the impact of both the economic recession and the legislated tax reductions of ARRTA. Receipts as a share of GDP have not been this low since 1950. The increase in receipts as a share of GDP in 2011 reflects the expiration of numerous provisions of EGTRRA, JGTRRA, and ARRTA.

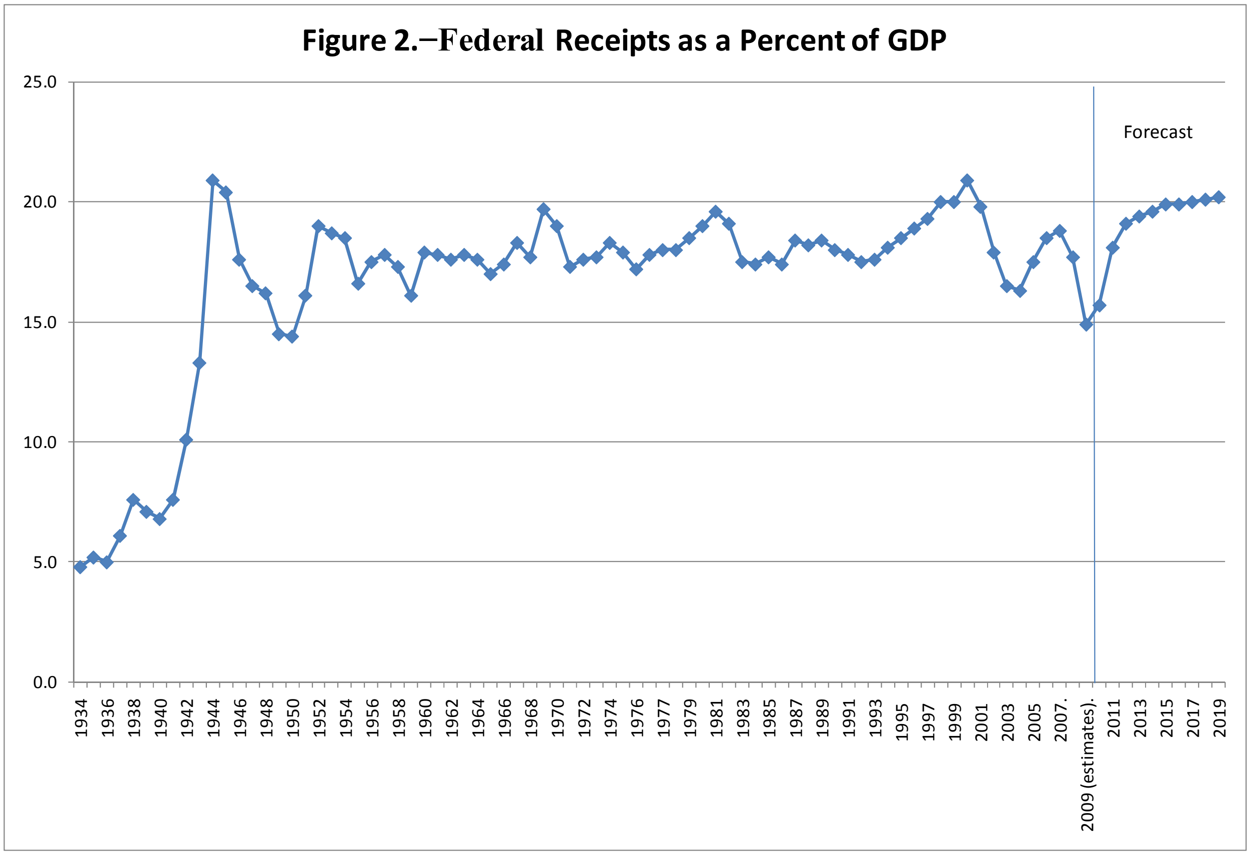
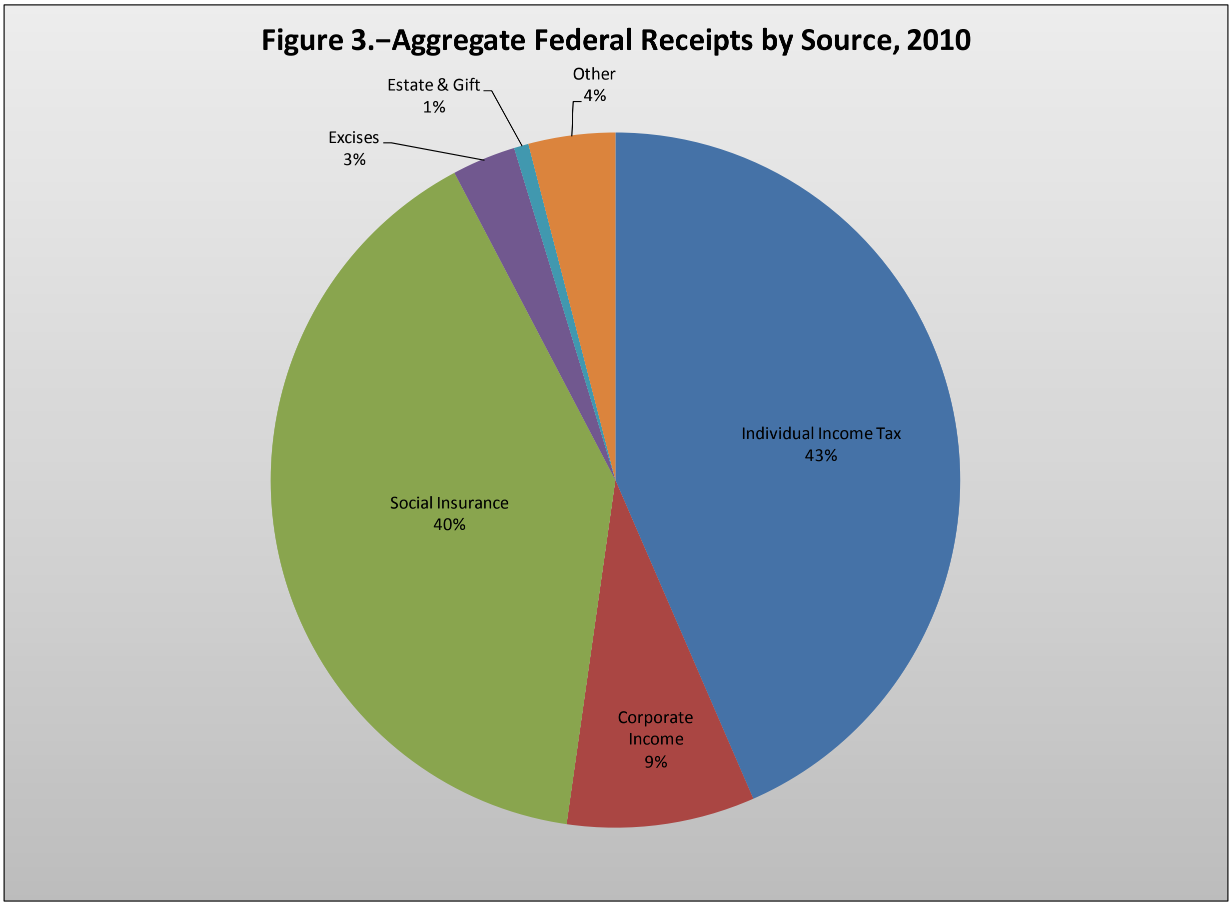


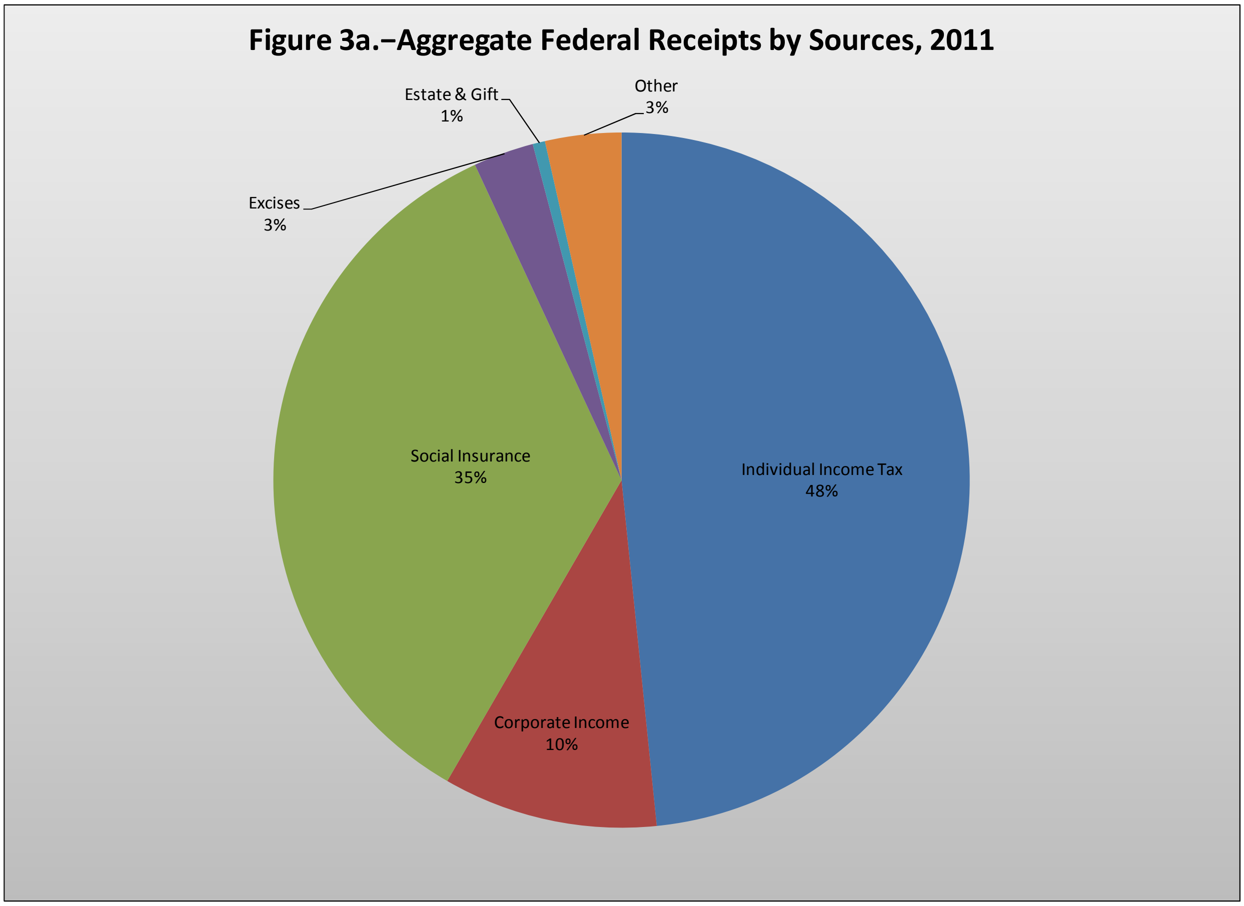
Figure 2.—Federal Receipts as a Percent of GDP

Source: Office of Management and Budget and Congressional Budget Office.

Figure 3 and 3a, below, show aggregate Federal receipts by source for 2010 and 2011. The individual income tax and social insurance taxes are the two largest sources of revenue, with the individual income tax the larger of the two and growing relative to other sources of revenue in 2011 as a result of the expiration of numerous income tax related provisions of EGTRRA, JGTRRA, and ARRTA.



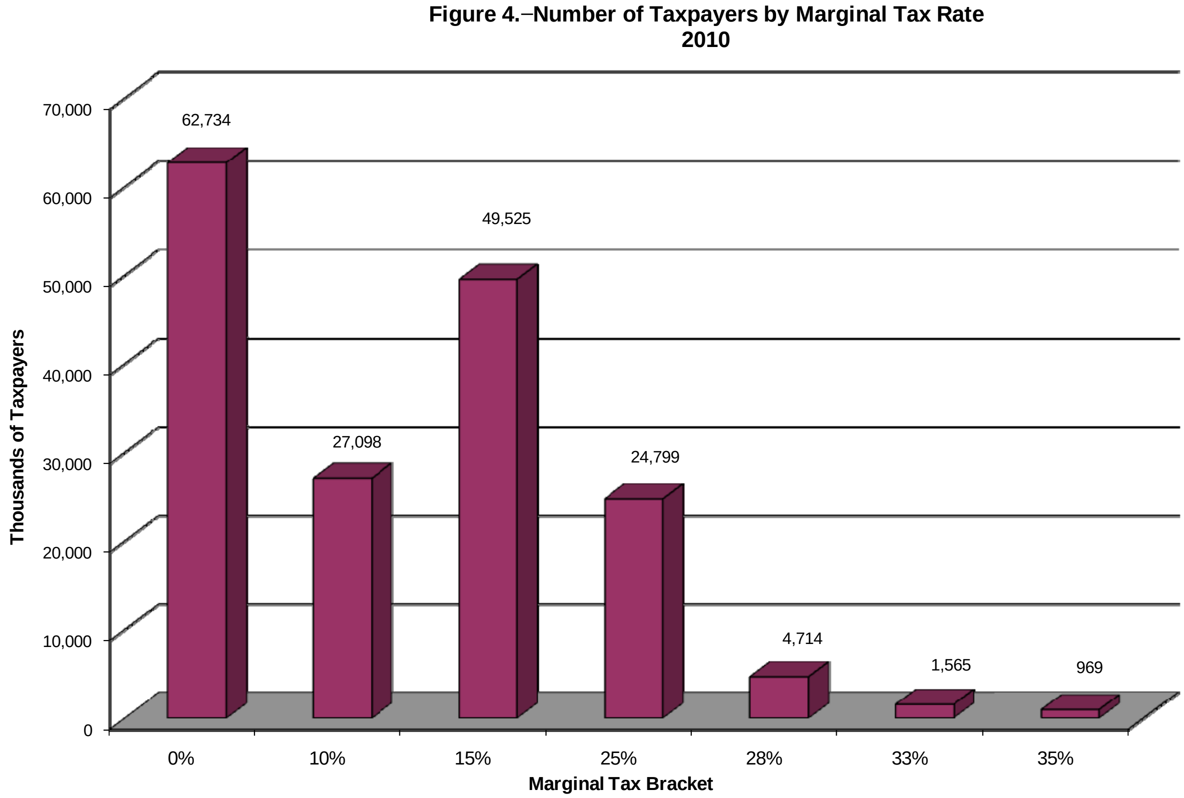
Source: Congressional Budget Office and Staff of the Joint Committee on Taxation.



Source: Congressional Budget Office and Staff of the Joint Committee on Taxation.

Figure 4, below shows the number of taxpayers by statutory marginal tax bracket for 2010. The largest single group, of slightly fewer than 63 million returns[15], or about 37 percent of all returns, has a statutory marginal rate of zero. In contrast, slightly fewer than a million returns have a statutory marginal tax rate of 35 percent, the top marginal rate.

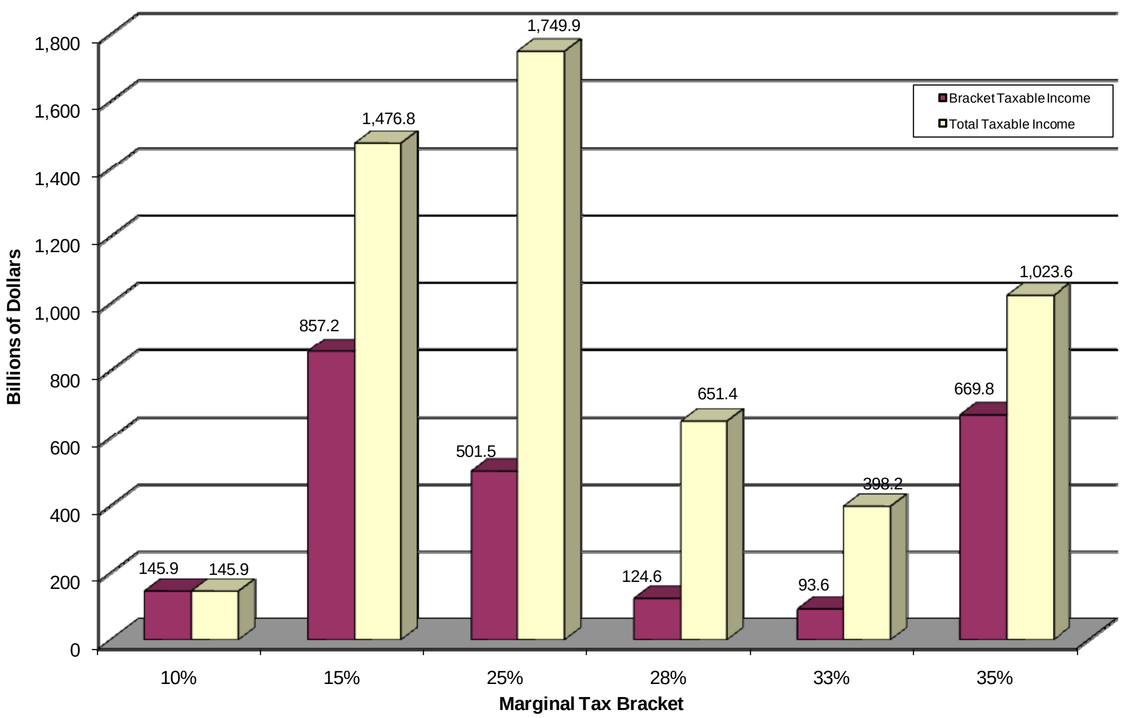
[15] "Returns" includes filers and nonfilers.



Source: Staff of the Joint Committee on Taxation.

Figure 5, below, sorts taxpayers by their marginal tax bracket (the bracket at which their last dollar of income is taxed), and shows total taxable income of taxpayers in each marginal rate bracket, as well as the taxable income in the marginal bracket alone, for 2010. Thus, for example, taxpayers with a marginal rate bracket of 28 percent have total taxable income of $651.4 billion, of which $124.6 billion is taxed at the marginal bracket of 28 percent, with the rest taxed at the lower rates of 25, 15 and 10 percent.

Figure 5.–Total Taxable Income of Taxpayers in Each Marginal Rate Bracket 2010



Source: Staff of the Joint Committee on Taxation.

Figure 6 shows the refundable credits for 2010 and 2011. Six principal refundable individual income tax credits are available in 2010–the earned income tax credit, the child tax credit, the making work pay credit, the first-time homebuyer credit, the American opportunity tax credit, and the health care tax credit. All but the child tax credit and the American opportunity tax credit are fully refundable credits. In 2011, the making work pay credit, the first-time homebuyer credit, and the American opportunity tax credit expire (the latter reverts to the Hope credit of prior law). Additionally, the child tax credit, the earned income tax credit, and the health care tax credit are reduced as a result of the expiration of provisions of EGTRRA and ARRTA. In 2010, the aggregate amount of all refundable credits claimed is estimated to be $188.2 billion, of which $98 billion is estimated to represent the refundable portion. In 2011, the aggregate amount of all refundable credits claimed is estimated to be $66.2 billion, of which $45 billion is estimated to represent the refundable portion.[16]

[16] The aggregate totals do not sum to the individual estimates in Figure 6 as a result of interactions among the refundable credits. The separately estimated credits as shown in Figure 6 are as follows in billions of dollars (refundable portion in parentheses) for 2010: earned income tax credit $55.4 ($49.7); the child tax credit $54.6 ($30.8); the making work pay credit $56.6 ($18.5), the first-time homebuyer credit $11.2 ($3.7), the American opportunity tax credit $9.9 ($3.0), and the health care tax credit $0.4 ($0.3). The figures for 2011 are: earned income tax credit $50.0 ($42.1); the child tax credit $14.6 ($3.8); and the health care tax credit $0.2 ($0.2).

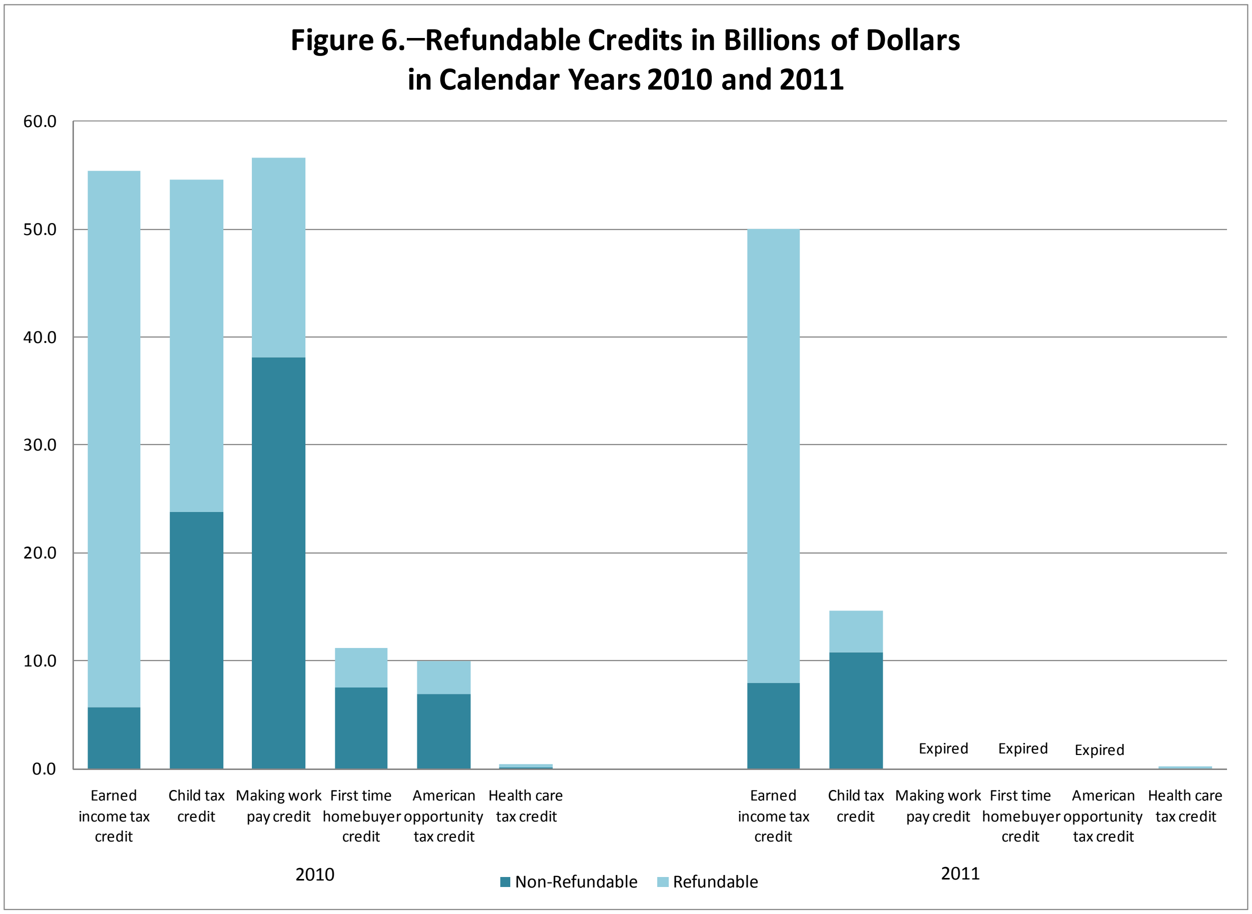


Table 5, below, shows by income group the number of returns that owe income tax, the number with no income tax liability, and the number with negative income tax liability (that is, they receive refundable credits that more than offset their tax liability before credits). The table shows that a taxpayer is more likely to owe tax the greater is his or her income.

Table 5 also shows by income group the number of taxpayers who claim itemized deductions. Because many deductions are likely to rise with income (State and local income taxes, for example), taxpayers with greater income are more likely to have deductions that exceed the standard deduction, and thus they will choose to itemize rather than take the standard deduction.

Table 5.–Distribution of Taxpayers by Tax Liability and Itemized Deduction Status
Tax Year 2010

Income Category (1)	Total Returns (2)	Returns with positive income liability		Returns with itemized deductions		Returns with negative income tax liability	Returns with zero income tax liability
	Number	Number	Percentage of all returns	Number	Percentage of all returns		
Less than $10,000	26,978	56	0.2%	645	2.4%	9,573	17,349
$10,000 to $20,000	21,399	2,196	10.3%	1,086	5.1%	10,025	9,178
$20,000 to $30,000	16,076	5,383	33.5%	1,792	11.1%	7,356	3,337
$30,000 to $40,000	14,197	7,025	49.5%	2,769	19.5%	5,859	1,313
$40,000 to $50,000	12,694	8,021	63.2%	3,855	30.4%	3,875	798
$50,000 to $75,000	23,918	18,059	75.5%	10,636	44.5%	4,720	1,139
$75,000 to $100,000	16,201	14,854	91.7%	10,583	65.3%	1,134	213
$100,000 to $200,000	22,189	21,769	98.1%	20,310	91.5%	332	88
$200,000 to $500,000	5,089	5,066	99.5%	4,885	96.0%	3	20
$500,000 to $1,000,000	717	715	99.7%	670	93.4%	[3]	2
$1,000,000 and over	366	364	99.5%	333	91.0%	[3]	[3]
Total	159,824	83,509	52.3%	57,565	36.0%	42,877	33,439

(1) The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable Social Security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 2009 levels.

(2) Includes filers and nonfilers.

(3) Less than 500.

Returns are in thousands.

Table 5A.–Distribution of Taxpayers by Tax Liability and Itemized Deduction Status
Tax Year 2011

Income Category (1)	Total Returns (2)	Returns with positive income liability		Returns with itemized deductions		Returns with negative income tax liability	Returns with zero income tax liability
	Number	Number	Percentage of all returns	Number	Percentage of all returns		
Less than $10,000	26,123	55	0.2%	762	2.9%	6,438	19,630
$10,000 to $20,000	21,083	4,308	20.4%	1,314	6.2%	6,111	10,664
$20,000 to $30,000	16,162	6,509	40.3%	2,213	13.7%	5,076	4,577
$30,000 to $40,000	14,210	8,758	61.6%	3,327	23.4%	3,352	2,101
$40,000 to $50,000	12,934	9,924	76.7%	4,558	35.2%	1,532	1,477
$50,000 to $75,000	24,744	21,678	87.6%	12,548	50.7%	777	2,289
$75,000 to $100,000	16,884	16,367	96.9%	11,522	68.2%	49	468
$100,000 to $200,000	22,938	22,764	99.2%	19,752	86.1%	8	166
$200,000 to $500,000	5,214	5,198	99.7%	4,925	94.5%	[3]	16
$500,000 to $1,000,000	716	715	99.9%	668	93.3%	[3]	[3]
$1,000,000 and over	371	370	99.7%	333	89.8%	[3]	[3]
Total	161,380	96,647	59.9%	61,922	38.4%	23,343	41,390

(1) The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable Social Security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 2009 levels.

(2) Includes filers and nonfilers.

(3) Less than 500.

Returns are in thousands.

Data related to the alternative minimum tax

Figure 7, below, shows the staff of the Joint Committee on Taxation's estimates of the number of taxpayers subject to the AMT under present law and the AMT liability and lost credits that occur as a result of the AMT. The 2010 figures show a sharp rise in the revenue raised and the number of taxpayers affected as a result of the expiration of the temporary increase in the exemption levels under the AMT that expired at the end of 2009. In 2011, the number of taxpayers affected by the AMT and the AMT liability and lost credits decline as a result of the EGTRAA sunsets of the regular tax rate reductions and other provisions which reduce regular tax liability. With the rise in regular tax liability, fewer taxpayers are affected by the AMT. In 2012 and beyond, the number of taxpayers affected by the AMT and the amount of AMT liability and lost credits rises gradually as a result of the fact that the AMT is not indexed for inflation while the main parameters of the regular individual income tax are indexed for inflation.

Figure 7.–Taxpayers Affected by the AMT
Projections: 2009 - 2019

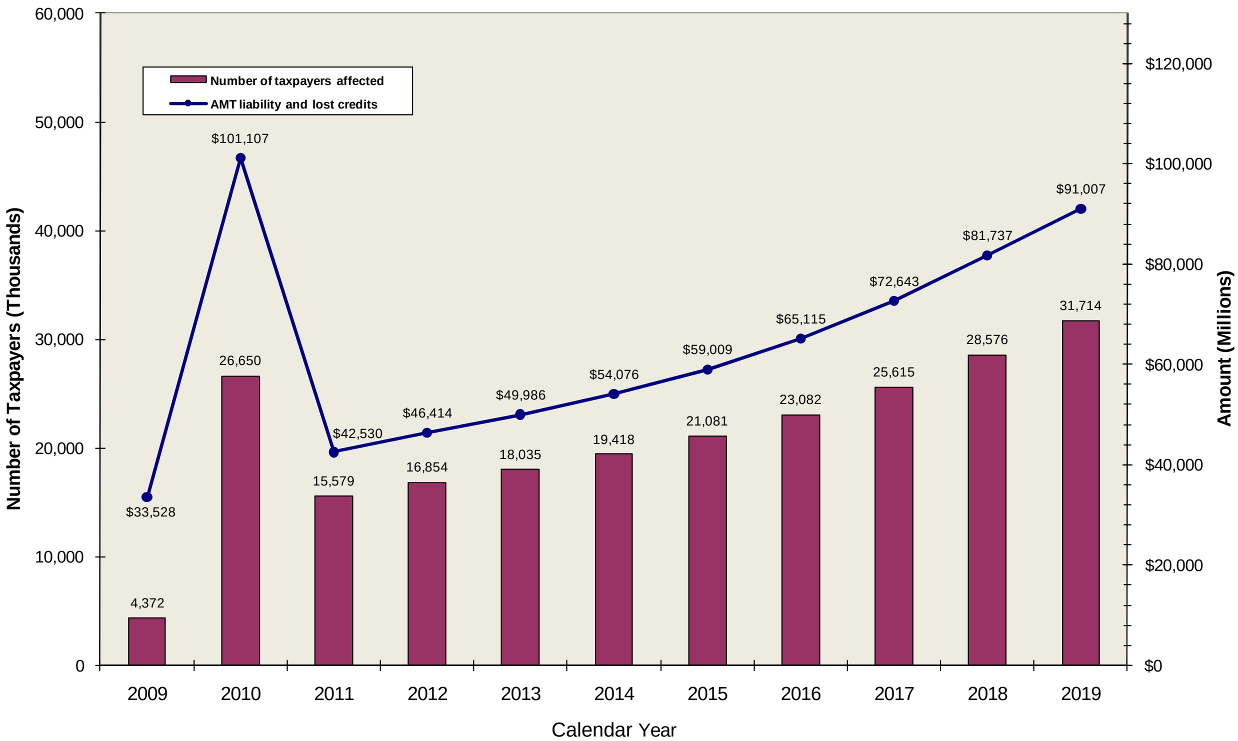


Figure 8, below, shows the number of taxpayers that are affected by the AMT under three alternative scenarios: (1) present law, (2) present law with the EGTRRA and JGTRAA provisions extended, and (3) present law with EGTRRA and JGTRAA provisions extended and the provisions of the AMT indexed for inflation from the 2009 levels.[17] Extending EGTRRA and JGTRAA without other changes to the AMT increases the number of taxpayers subject to the AMT and the rate of growth of the number of taxpayers subject to the AMT is similar to that which would result under present law. The indexing of the parameters of the AMT from the 2009 levels substantially reduces the number of taxpayer affected by the AMT relative to present law and substantially reduces the rate of growth of taxpayers affected by the AMT relative to present law.

[17] The provisions of the AMT that are indexed for inflation under this scenario are the exemption amounts, the rate brackets, and the beginning point of the phaseout of the exemption amount.

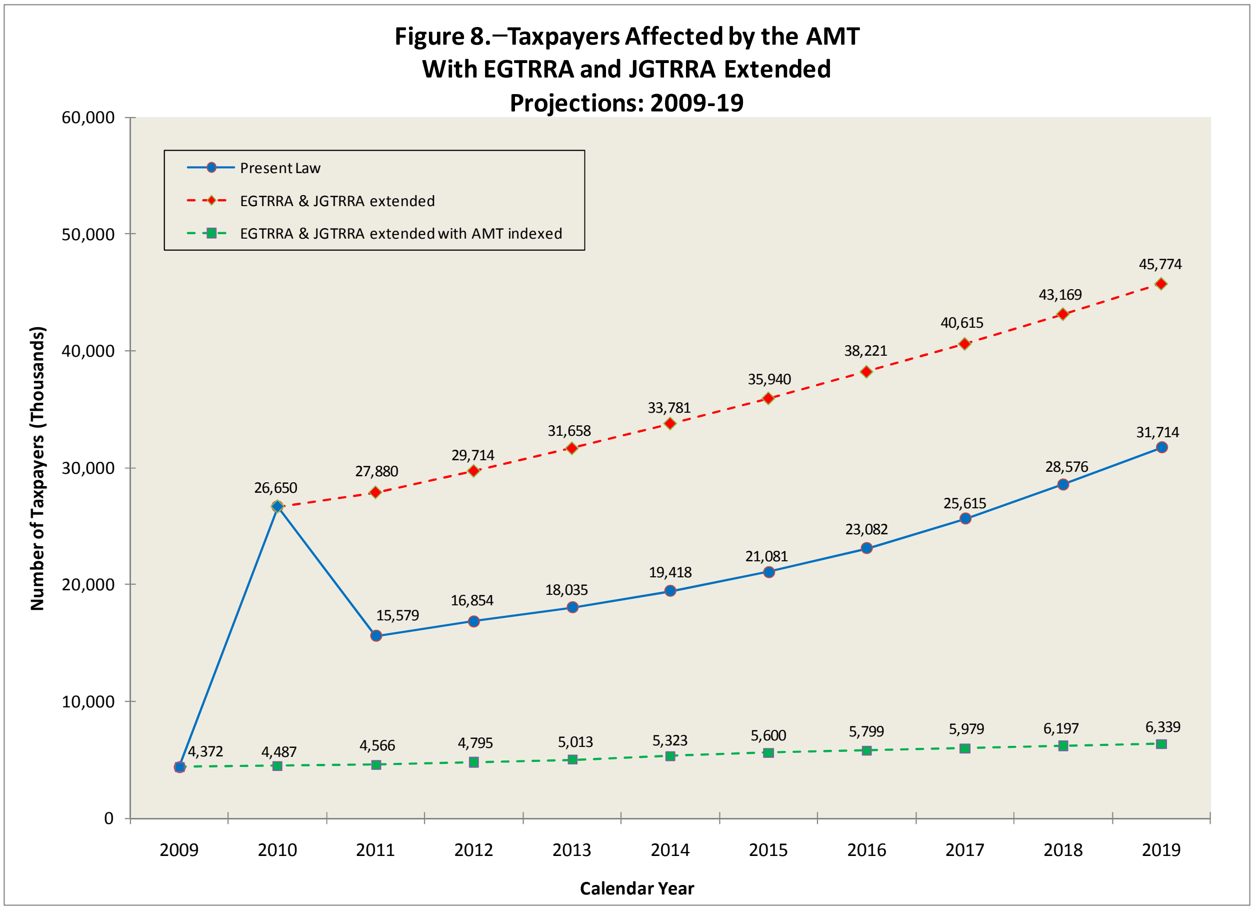


Table 6, below, shows the distribution of taxpayers affected by the AMT under current law for 2010 juxtaposed with the same data if the AMT "patch" were enacted. The AMT "patch" is the increasing of the AMT exemption levels in a manner similar to past legislation so that the number of taxpayers affected by the AMT is held to 4.2 million taxpayers. Implementing the AMT patch for 2010 would require increasing the AMT exemption levels to $72,650 for married taxpayers filing jointly, to $47,550 for head of household and single filers, and to $36,325 for married taxpayers filing separately and to estates and trusts.

Table 6.–Taxpayers Affected by the AMT in 2010

[Returns in Thousands Dollars in Millions]

	Present Law All Taxpayers			With AMT "Patch" All Taxpayers		
Adjusted Gross Income	Returns	AMT + lost credits	Percentage of taxpayers in the income catagory affected by the AMT	Returns	AMT + lost credits	Percentage of taxpayers in the income catagory affected by the AMT
Less than $10,000	10	$157	0.02%	6	$132	0.01%
$10,000 - $20,000	17	$24	0.08%	16	$15	0.07%
$20,000 - $30,000	18	$23	0.10%	8	$13	0.05%
$30,000 - $40,000	182	$85	1.25%	1	$11	0.01%
$40,000 - $50,000	502	$384	4.38%	6	$50	0.05%
$50,000 - $75,000	3,048	$2,656	14.96%	53	$65	0.26%
$75,000 - $100,000	6,384	$8,453	48.96%	107	$197	0.82%
$100,000 - $200,000	12,442	$36,244	83.47%	900	$2,673	6.04%
$200,000 - $500,000	3,482	$37,526	96.67%	2,550	$18,218	70.79%
$500,000 - $1,000,000	450	$7,813	72.00%	449	$7,767	71.84%
$1,000,000 and above	115	$7,736	33.82%	115	$7,724	33.82%
Total	26,650	$101,102	15.55%	4,210	$36,865	2.46%

Source: Staff of the Joint Committee on Taxation.

Data related to the distribution of income and taxes[18]

For 2010, the Staff of the Joint Committee on Taxation estimates that the top 10 percent (in terms of income) of all tax returns will receive 42.5 percent of all income and pay 79.5 percent of all income taxes. The top five percent of all tax returns will receive 31.2 percent of all income and pay 66.1 percent of all income taxes. The top one percent of all tax returns will receive 17.2 percent of all income and pay 41.3 percent of all income taxes. In 2010, the income estimated to be necessary to be in the top one percent of all returns is $392, 583; the top five percent requires $179, 071; and the top 10 percent requires $131,813.

For 2011, the top 10 percent (in terms of income) of all tax returns will receive 41.8 percent of all income and pay 71.2 percent of all income taxes. The top five percent of all tax returns will receive 30.7 percent of all income and pay 59.2 percent of all income taxes. The top one percent of all tax returns will receive 16.7 percent of all income and pay 38.6 percent of all income taxes. In 2011, the income estimated to be necessary to be in the top one percent of all returns is $392,001; the top five percent requires $186,091; and the top 10 percent requires $132,597.

[18] See Table7 footnote 1, below, for the definition of income used herein.

Table 7, below, shows the projected distribution of income and taxes by income category for 2010 tax returns.[19] For example, tax returns with $30,000 to $40,000 of income constitute 8.9 percent of all returns, 4.7 percent of all income, 2.6 percent of total taxes, negative 0.4 percent of individual income taxes (i.e., the group on average receives income tax credits in excess of income tax liability), and 5.6 percent of social insurance taxes. Similarly, tax returns with $100,000 to $200,000 of income constitute 13.4 percent of all returns, 27.1 percent of all income, 31 percent of total taxes, 29.4 percent of individual income taxes, and 33.4 percent of social insurance taxes.

Table 7 also shows average tax rates by income category for the individual income tax, social insurance taxes, and for total taxes (including the individual income tax, social insurance taxes and excise taxes, but not the corporate income tax). Note that the average tax rate reported here is the tax collected by the relevant tax, divided by total income (not only income subject to the relevant tax). The average tax rate for social insurance taxes is similar across most tax returns, ranging between 7.5 and 10.3 percent for tax returns with income below $500,000, with substantially lower average rates for those with income above $500,000. Because the social insurance tax rates are constant, the variation in the average rate reflects the variation in the different income groups' share of income that is subject to social insurance taxes. The average tax rate under the income tax varies widely, from a negative 9.3 percent to 22.9 percent, reflecting the existence of refundable tax credits and progressive statutory rates of tax.

[19] The income categories and measures of income used in the staff of the Joint Committee models are not directly comparable to the historical data presented earlier in this pamphlet. Additionally, the staff of the Joint Committee on Taxation does not estimate the distribution of the corporate income taxes on account of the uncertainty in the incidence of the corporate income tax. See footnotes to Table 7 for the definition of income used by the staff of the Joint Committee on Taxation.

Table 7.–Distribution of Income and Taxes, and Average Tax Rates

2010

INCOME CATEGORY (1)	Number of Returns (2) (Thousands)	Share of Returns	Income (Millions of Dollars)	Share of Income	COMBINED INCOME, SOCIAL INSURANCE, AND EXCISE TAXES UNDER PRESENT LAW (3)			INDIVIDUAL INCOME TAXES			EMPLOYMENT TAXES		
					$ Billions	Percent Share	Average Tax Rate	$ Billions	Percent Share	Average Tax Rate	$ Billions	Percent Share	Average Tax Rate
Less than $10,000..................	27,457	17.2%	126,771	1.2%	6.1	0.3%	4.8%	-11.8	-1.2%	-9.3%	11.5	1.3%	9.1%
$10,000 to $20,000..............	21,634	13.5%	326,261	3.0%	2.9	0.1%	0.9%	-27.2	-2.7%	-8.3%	24.5	2.7%	7.5%
$20,000 to $30,000..............	16,198	10.1%	406,832	3.8%	24.3	1.2%	6.0%	-19.4	-1.9%	-4.8%	38.6	4.3%	9.5%
$30,000 to $40,000..............	14,303	8.9%	508,604	4.7%	52.0	2.6%	10.2%	-4.2	-0.4%	-0.8%	50.8	5.6%	10.0%
$40,000 to $50,000..............	12,821	8.0%	585,728	5.4%	71.8	3.6%	12.3%	10.0	1.0%	1.7%	56.4	6.2%	9.6%
$50,000 to $75,000..............	23,892	14.9%	1,498,648	13.9%	216.6	10.9%	14.5%	62.5	6.2%	4.2%	142.1	15.7%	9.5%
$75,000 to $100,000..............	16,145	10.1%	1,426,988	13.2%	239.3	12.0%	16.8%	89.0	8.9%	6.2%	140.8	15.6%	9.9%
$100,000 to $200,000.............	21,463	13.4%	2,923,360	27.1%	615.7	31.0%	21.1%	295.0	29.4%	10.1%	302.1	33.4%	10.3%
$200,000 to $500,000.............	4,860	3.0%	1,363,375	12.7%	356.1	17.9%	26.1%	246.7	24.6%	18.1%	102.5	11.3%	7.5%
500,000 to $1,000,000............	694	0.4%	474,830	4.4%	124.3	6.3%	26.2%	104.5	10.4%	22.0%	18.4	2.0%	3.9%
$1,000,000 and over..............	357	0.2%	1,129,807	10.5%	277.1	14.0%	24.5%	258.8	25.8%	22.9%	17.5	1.9%	1.5%
Total, All Taxpayers..........	159,824	100.0%	10,771,203	100.0%	1,986.2	100.0%	18.4%	1,003.8	100.0%	9.3%	905.3	100.0%	8.4%

(1) The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable social security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 2009 levels.

(2) Includes nonfilers, excludes dependent filers and returns with negative income.

(3) Federal taxes are equal to individual income tax (including the outlay portion of the EIC), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax is not included due to uncertainty concerning the incidence of the tax. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis. Does not include indirect effects.

(4) The average tax rate is equal to Federal taxes described in footnote (3) divided by income described in footnote (2).

Source: Staff of the Joint Committee on Taxation.

Table 7A shows the same data as Table 7, but for tax year 2011. The most notable difference is the increase in total taxes of $303 billion and an increase of 2.4 percent in the average tax rate. Individual income taxes rise by $276.9 billion, occurring mainly as a result of the sunset provisions of EGGTRA and JGTRRA, but also as a result of the expiration of provisions of ARRTA, including the making work pay credit.

Table 7A.–Distribution of Income and Taxes, and Average Tax Rates

2011

INCOME CATEGORY (1)	Number of Returns (2) (Thousands)	Share of Returns	Income (Millions of Dollars)	Share of Income	COMBINED INCOME, SOCIAL INSURANCE, AND EXCISE TAXES UNDER PRESENT LAW (3)			INDIVIDUAL INCOME TAXES			EMPLOYMENT TAXES		
					$ Billions	Percent Share	Average Tax Rate[4]	$ Billions	Percent Share	Average Tax Rate[4]	$ Billions	Percent Share	Average Tax Rate[4]
Less than $10,000..................	26,590	16.5%	122,573	1.1%	10.4	0.5%	8.5%	-7.7	-0.6%	-6.3%	11.5	1.2%	9.4%
$10,000 to $20,000..............	21,416	13.3%	324,038	2.9%	14.8	0.6%	4.6%	-15.9	-1.2%	-4.9%	25.0	2.7%	7.7%
$20,000 to $30,000..............	16,294	10.1%	409,757	3.7%	40.7	1.8%	9.9%	-3.9	-0.3%	-1.0%	39.3	4.2%	9.6%
$30,000 to $40,000..............	14,335	8.9%	510,612	4.6%	69.5	3.0%	13.6%	12.6	1.0%	2.5%	51.2	5.5%	10.0%
$40,000 to $50,000..............	13,041	8.1%	596,899	5.4%	89.0	3.9%	14.9%	26.0	2.0%	4.4%	57.3	6.2%	9.6%
$50,000 to $75,000..............	24,741	15.3%	1,554,790	14.1%	256.8	11.2%	16.5%	98.0	7.6%	6.3%	146.1	15.8%	9.4%
$75,000 to $100,000..............	16,785	10.4%	1,485,631	13.5%	275.8	12.0%	18.6%	121.1	9.5%	8.2%	144.6	15.6%	9.7%
$100,000 to $200,000.............	22,169	13.7%	3,018,670	27.4%	679.7	29.7%	22.5%	349.8	27.3%	11.6%	309.9	33.4%	10.3%
$200,000 to $500,000.............	4,953	3.1%	1,391,992	12.7%	376.2	16.4%	27.0%	263.8	20.6%	18.9%	105.2	11.3%	7.6%
500,000 to $1,000,000............	693	0.4%	474,080	4.3%	141.5	6.2%	29.9%	121.3	9.5%	25.6%	18.9	2.0%	4.0%
$1,000,000 and over..............	361	0.2%	1,111,347	10.1%	334.8	14.6%	30.1%	315.8	24.7%	28.4%	18.2	2.0%	1.6%
Total, All Taxpayers.........	161,380	100.0%	11,000,389	100.0%	2,289.2	100.0%	20.8%	1,280.7	100.0%	11.6%	927.1	100.0%	8.4%

(1) The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable social security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 2009 levels.

(2) Includes nonfilers, excludes dependent filers and returns with negative income.

(3) Federal taxes are equal to individual income tax (including the outlay portion of refundable credits), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax is not included due to uncertainty concerning the incidence of the tax. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis. Does not include indirect effects.

(4) The average tax rate is equal to Federal taxes described in footnote (3) divided by income described in footnote (1).

Source: Staff of the Joint Committee on Taxation.

Table 8 shows, by income class, the number of tax returns paying income or social insurance taxes for which the social insurance taxes are greater than income taxes in 2010. Because of the progressive income tax structure and the generally flat structure of social insurance taxes, the likelihood social insurance taxes will exceed income taxes increases as income levels decline. Thus, for example, in the $40,000 to $50,000 income group, 86.4 percent of tax returns have social insurance taxes greater than income taxes, while in the $100,000 to $200,000 group 60.7 percent of returns have social insurance taxes greater than income taxes.

Table 8.–Tax Returns with Income or Social Insurance Taxes
2010

INCOME CATEGORY (1)	Millions of Returns	Individual Income Taxes	Employment Taxes	Returns with Employment Taxes Greater than Income Taxes	Returns with Employment Taxes Less than Income Taxes	Fraction of Returns with Employment Taxes Greater than Income Taxes
		$ Billions	$ Billions	Millions of Returns	Millions of Returns	
Less than $10,000....................	16.0	-11.8	11.5	16.0	[3]	99.8%
$10,000 to $20,000...............	13.5	-27.2	24.5	13.2	0.2	98.2%
$20,000 to $30,000...............	13.3	-19.4	38.6	12.8	0.5	96.4%
$30,000 to $40,000...............	13.1	-4.2	50.8	12.0	1.0	92.1%
$40,000 to $50,000...............	12.1	10.0	56.4	10.4	1.6	86.4%
$50,000 to $75,000...............	22.8	62.5	142.1	18.8	4.0	82.6%
$75,000 to $100,000...............	16.0	89.0	140.8	11.8	4.2	73.9%
$100,000 to $200,000...............	21.4	295.0	302.1	13.0	8.4	60.7%
$200,000 to $500,000...............	4.8	246.7	102.5	0.2	4.6	4.4%
500,000 to $1,000,000.............	0.7	104.5	18.4	0.0	0.7	1.6%
$1,000,000 and over...............	0.4	258.8	17.5	0.0	0.4	1.1%
Total, All Taxpayers..........	133.9	1003.8	905.3	108.3	25.6	80.9%

(1) The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable social security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 2009 levels.

(2) Includes nonfilers, excludes dependent filers and returns with negative income.

(3) Fewer than 50,000 returns.

Source: Staff of the Joint Committee on Taxation.

Table 8A, below, shows the same information for 2011. The principal change is the uniform increase across all income groups in the growth of income tax liability versus employment tax liability, as a result of the previously mentioned expiration of certain provisions of EGTTRA, JGTRRA, and ARRTA. The fraction of all returns with social insurance liability greater than income tax liability falls from 80.9 percent in 2010 to 76.6 percent in 2011.

Table 8A.–Tax Returns with Income or Social Insurance Taxes
2011

INCOME CATEGORY (1)	Millions of Returns[2]	Individual Income Taxes	Employment Taxes	Returns with Employment Taxes Greater than Income Taxes	Returns with Employment Taxes Less than Income Taxes	Fraction of Returns with Employment Taxes Greater than Income Taxes
		$ Billions	$ Billions	Millions of Returns	Millions of Returns	
Less than $10,000..................	15.5	-7.7	11.5	15.5	[3]	99.8%
$10,000 to $20,000..............	13.5	-15.9	25.0	13.2	0.3	97.9%
$20,000 to $30,000..............	13.4	-3.9	39.3	12.8	0.6	95.5%
$30,000 to $40,000..............	13.1	12.6	51.2	11.9	1.2	90.8%
$40,000 to $50,000..............	12.4	26.0	57.3	10.4	1.9	84.4%
$50,000 to $75,000..............	23.7	98.0	146.1	18.2	5.5	76.7%
$75,000 to $100,000..............	16.6	121.1	144.6	11.0	5.7	65.8%
$100,000 to $200,000..............	22.1	349.8	309.9	11.3	10.8	51.2%
$200,000 to $500,000..............	4.9	263.8	105.2	0.2	4.7	4.0%
500,000 to $1,000,000............	0.7	121.3	18.9	0.0	0.7	0.9%
$1,000,000 and over..............	0.4	315.8	18.2	0.0	0.4	0.3%
Total, All Taxpayers..........	136.4	1280.7	927.1	104.5	31.9	76.6%

(1) The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable social security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 2009 levels.

(2) Includes nonfilers, excludes dependent filers and returns with negative income.

(3) Fewer than 50,000 returns.

Source: Staff of the Joint Committee on Taxation.

Table 9, below, shows the average marginal tax rates for labor income and for long-term capital gain income by income category for 2010. A taxpayer's marginal tax rate is the rate of tax that is owed on the last dollar of income of the taxpayer. Table 9 reports the average of the marginal tax rates of each taxpayer in the income category.

Table 9.–Marginal Tax Rates on Labor Income and Long Term Capital Gain, by Income Category
2010

	Labor Income			Long-Term Capital Gains Income
	Average Marginal Income Tax Rate (2)	Average Marginal Employment Tax Rate (2)	Average Combine Marginal Income and Employment Tax Rate	Average Marginal Tax Rate
Less than $10,000............	-10.3%	14.2%	3.9%	2.1%
$10,000 to $20,000..............	-0.9%	14.2%	13.3%	0.2%
$20,000 to $30,000..............	10.5%	14.2%	24.7%	0.4%
$30,000 to $40,000..............	15.0%	14.2%	29.2%	1.0%
$40,000 to $50,000..............	16.3%	14.2%	30.5%	3.3%
$50,000 to $75,000..............	17.5%	14.2%	31.7%	6.2%
$75,000 to $100,000..............	18.9%	14.2%	33.1%	8.1%
$100,000 to $200,000..............	25.1%	12.6%	37.7%	14.8%
$200,000 to $500,000..............	31.6%	8.1%	39.7%	18.1%
$500,000 to $1,000,000..............	28.9%	6.4%	35.3%	15.0%
$1,000,000 and over..............	31.7%	6.2%	37.9%	14.9%
Total, All Taxpayers..........	14.8%	13.5%	28.3%	14.7%

(1) The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable social security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 2009 levels.

(2) For individual income and employment taxes, the average marginal tax rate is equal to the change in taxes from an additional $100 of wages to each spouse with positive wages. For long-term capital gain, the average marginal tax rate equals the change in taxes from an additional 1% increase in long-term capital gains to each taxpayer with positive long-term capital gains.

Source: Staff of the Joint Committee on Taxation.

The marginal tax rates on labor income reflect the effects of the individual income tax and the social insurance taxes. They generally rise with income, reflecting the progressive nature of the individual income tax. The social insurance tax is flat to regressive,[20] reflecting the fact that the single rate of tax for the Old Age and Survivors Disability Insurance portion of social insurance taxes does not apply to earnings above an annual cap ($106,800 in 2010).[21]

The marginal tax rates on long-term capital income are lower than those for labor income, reflecting both the lower statutory rates of tax applicable to long-term capital gains and the fact that social insurance taxes do not apply to capital gain income. Marginal tax rates on

[20] Note that this statement reflects only the tax side of social insurance, and not the linked benefits. Many analysts think it is important to consider the tax and benefits of social insurance together.

[21] As table 7 shows, the marginal social insurance tax rate is 14.2 percent rather than the sum of the employer (7.65 percent) and employee share (7.65 percent), or 15.3 percent. The reason for this is that comprehensive income includes the employer share of social insurance tax liability. Hence the marginal social insurance rate is .153 divided by 1.0765, or 14.2 percent.

long-term capital gains still generally rise with the level of income, reflecting the statutory structure of the maximum rates of tax on long-term capital gain income, as well as the interaction of capital gain income with other provision of the income tax that phase out certain tax benefits as income increases.

Qualified dividend income also receives the same lower tax rates as long term capital gains income in 2010. Other forms of capital income, such as from interest, rent, royalties, S corporations and partnerships, generally receive ordinary income tax treatment. As a result, these other forms of capital income would generally face the same marginal rate of income (but not social insurance) tax as labor income. However, a taxpayer could have a marginal rate of income tax on labor income that is lower than the marginal rate of tax on these other forms of capital income as a result of the making work pay credit, the phase-in of the earned income credit, or the refundable child credit.

Table 9A, below, shows the same information as Table 7 for 2011. The staff of the Joint Committee on Taxation estimates that the combined marginal income and social insurance tax rate for all taxpayers will rise 2.4 percentage points from 2010 to 2011 as a result of the 2.4 percentage point increase in the average marginal income tax rates due to the expiration of certain provisions of EGTRRA and ARRTA. The average marginal tax rate for long-term capital gains rises to 19.4 percent from 14.7 percent in 2010, an increase of 4.7 percentage points, as a result of the expiration of the reduced capital gains rates of EGTRRA.

Table 9A.–Marginal Tax Rates on Labor Income and Long Term Capital Gain, by Income Category
2011

	Labor Income			Long-Term Capital Gains Income
	Average Marginal Income Tax Rate (2)	Average Marginal Employment Tax Rate (2)	Average Combine Marginal Income and Employment Tax Rate	Average Marginal Tax Rate
Less than $10,000............	-6.8%	14.2%	7.4%	0.4%
$10,000 to $20,000..............	4.2%	14.2%	18.4%	2.6%
$20,000 to $30,000..............	13.1%	14.2%	27.4%	4.9%
$30,000 to $40,000..............	15.8%	14.2%	30.0%	4.8%
$40,000 to $50,000..............	15.9%	14.2%	30.1%	8.1%
$50,000 to $75,000..............	18.1%	14.2%	32.3%	12.1%
$75,000 to $100,000..............	19.8%	14.2%	33.9%	15.0%
$100,000 to $200,000..............	25.5%	12.7%	38.1%	19.4%
$200,000 to $500,000..............	32.1%	8.1%	40.2%	22.6%
$500,000 to $1,000,000..............	37.4%	6.3%	43.7%	19.7%
$1,000,000 and over..............	37.9%	6.1%	44.0%	19.6%
Total, All Taxpayers..........	16.4%	13.5%	29.9%	19.4%

(1) The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable social security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 2009 levels.

(2) For individual income and employment taxes, the average marginal tax rate is equal to the change in taxes from an additional $100 of wages to each spouse with positive wages. For long-term capital gain, the average marginal tax rate equals the change in taxes from an additional 1% increase in long-term capital gains to each taxpayer with positive long-term capital gains.

Source: Staff of the Joint Committee on Taxation.

Expiring Provisions of EGTRRA and JCTRRA

Table 10, below, provides a comprehensive list of the provisions of current law that will expire at the end of 2010 as a result of the sunset provisions contained in EGTRRA and JGTRAA.

Table 10.−Provisions With a Termination Date in EGTRRA[22] and JGTRRA[23]

Provision (Code section)	Expiration Date
1. Ten percent individual income tax rate (sec. 1(i))	12/31/10
2. Reduction in other individual income tax rates − size of 15 percent rate bracket modified to reflect 10-percent rate, and 28 percent, 31 percent, 36 percent and 39.6 percent rates are reduced to 25 percent, 28 percent, 33 percent and 36 percent, respectively (sec. 1(i)(2))	12/31/10
3. Repeal of the personal exemptions phase-outs ("PEP") for high income taxpayers[24] (sec. 151(d)(3)(F))	12/31/10
4. Repeal of overall limitation on itemized deductions (the "Pease limitation")[25] (sec. 68(g))	12/31/10
5. Child credit − increase from $500 to $1,000, expand eligibility for refundable portion of the credit, alternative minimum tax ("AMT") relief, provide that child credit not treated as income or resources for purposes of benefit or assistance programs financed in whole or in	12/31/10

[22] The termination applies to all the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, ("EGTRRA") provisions otherwise in effect on the date December 31, 2010 (EGTRRA sec. 901). The Holocaust Restitution Tax Fairness Act of 2002, Pub. L. No. 107-358, repealed the termination contained in EGTRRA with respect to the exclusion from Federal income tax for restitution received by victims of the Nazi Regime. The Pension Protection Act of 2006, Pub. L. No. 109-280, repealed the termination contained in EGTRRA with respect to the pension and IRA provisions contained in subtitles A through F of title VI of EGTRRA and with respect to the qualified tuition program provisions in section 402 of EGTRRA.

[23] Provisions relating to reduced capital gains rates and dividends taxed at capital gains rates, enacted in the Jobs and Growth Tax Relief Reconciliation Act of 2003, Pub. L. No. 108-27, ("JGTRRA"), terminate on December 31, 2010, under JGTRRA section 303 as modified by section 102 of the Tax Increase Prevention and Reconciliation Act of 2005, Pub. L. No. 109-222 ("TIPRA").

[24] The phaseout is reduced for taxable years beginning in 2006 through 2009.

[25] The limitation is phased out for taxable years beginning in 2006 through 2009.

Provision (Code section)	Expiration Date
part with Federal funds (sec. 24(a) and (b)(3) and sec. 203 of Pub. L. No. 107-16)	
6. Adoption credit and adoption assistance exclusion − Increase to $10,000 for maximum credit and maximum exclusion, special needs adoptions deemed to have $10,000 eligible expenses for purposes of credit and exclusion, increase the beginning and ending points of phase-out range for credit and exclusion, the credit is allowed against AMT (secs. 23 and 137)	12/31/10
7. Dependent care credit − Increase of dollar limit on creditable expenses from $2,400 to $3,000 ($4,800 to $6,000 for two or more children), increase of applicable credit percentage from 30 to 35 percent , increase of beginning point of phase-out range from $10,000 to $15,000 (secs. 21(a)(2) and 21(c))	12/31/10
8. Credit for employer-provided child care (sec. 45F)	12/31/10
9. Increase of the standard deduction for married filers to double that of unmarried filers (sec. 63(c)(2)(A))	12/31/10
10. Increase of the size of 15-percent rate bracket for married filers to double that of unmarried filers (sec. 1(f)(8))	12/31/10
11. Earned income tax credit ("EITC") − Increase in the beginning point of the phase-out range for joint returns, modification of EITC treatment of amounts not includible in income, repeal of reduction of EITC for AMT liability, expansion of math error authority	12/31/10

Provision (Code section)	Expiration Date
(secs. 32(b)(2), (c)(2)(A)(i), (h), and 6213(g)(2))	
12. Education IRAs − Increase of maximum annual contribution from $500 to $2,000, expansion of definition of qualified education expenses, increase in the size of the phase-out range for married filers to double that of unmarried filers, provision of special needs beneficiary rules, contributions by corporations and other entities, and contributions until April 15th, permitted (secs. 530(b)(1), (b)(2), (b)(4), (c)(1), (d)(2))	12/31/10
13. Employer-provided educational assistance − expansion to graduate education and making the exclusion permanent (sec. 127(c)(1))	12/31/10
14. Student loan interest deduction − Increase and indexation for inflation of the phase-out ranges, repeal of the limit on the number of months that interest payments are deductible, repeal of the rule that voluntary payments of interest are not deductible (sec. 221)	12/31/10
15. Elimination of tax on awards under the National Health Service Corps Scholarship Program and the F. Edward Hébert Armed Forces Health Professions Scholarship and Financial Assistance Program (sec. 117(c)(2))	12/31/10

Provision (Code section)	Expiration Date
16. Tax-exempt bonds for educational facilities and activities − Increase in amount of bonds qualifying for small-issuer arbitrage rebate exception, expansion of tax-exempt bond treatment to public school facilities (secs. 142(a)(13) and (k), 146(g)(3), 147(h)(3) and 148(f)(4)(D)(vii))	12/31/10
17. Reduced capital gain rates for individuals (secs. 1(h)(1)(B), 55(b)(3)(B), 1(h)(1)(C), 55(b)(3)(C), 1445(e)(1), 7518(g)(6)(A) and sec. 102 of Pub. L. No. 109-222)	12/31/10
18. Dividends of individuals taxed at capital gain rates (secs. 1(h)(11), 163(d)(4)(B), 854(a), 854(b) and 857(c) and sec. 102 of Pub. L. No. 109-222))	12/31/10
19. Repeal of the estate and generation-skipping transfer taxes (secs. 2210 and 2261)	12/31/10
20. Reduction in the maximum gift tax rate to 35 percent[26] (sec. 2502)	12/31/10
21. Treatment of certain transfers in trust as taxable gifts under section 2503 (sec. 2511(c))	12/31/10

[26] Before repealing the estate and generation-skipping transfer taxes for decedents dying and gifts made in 2010, section 511 of EGTRRA reduced the maximum estate and gift tax rate from 55 percent to 50 percent for 2002, then phased down of the maximum estate and gift tax rate from 49 percent to 45 percent from 2002 through 2007. The maximum estate and gift tax rate remained at 45 percent from 2007 through 2009. The gift tax rate is reduced to 35 percent for gifts made in 2010. (Secs. 2001 and 2502.)

Provision (Code section)	Expiration Date
22. Increase in gift tax exemption amount to $1 million[27] (secs. 2010(c) and 2505(a)(1))	12/31/10
23. Repeal of the qualified family owned business deduction (sec. 2057)	12/31/10
24. Estate tax deduction for State death taxes paid[28] (secs. 2011, 2053, 2058, 2102, 2106, and 2604)	12/31/10
25. Modified carryover basis rules for property acquired from a decedent who dies during 2010[29] (secs. 1022, 1040, 6018, and 6716)	12/31/10
26. Expansion and clarification of estate tax conservation easement rules (secs. 2031(c)(2) and (c)(8)(A)(i))	12/31/10
27. Modifications to generation-skipping transfer tax rules regarding deemed allocations of exemption to certain transfers in trust, severing of trusts, valuation, and relief for late elections (secs. 2632(c) and 2642(a)(3), (b)(1) and (b)(2)(A))	12/31/10

[27] Before repealing the estate and generation-skipping transfer taxes for decedents dying and gifts made in 2010, section 521 of EGTRRA increased the estate and generation-skipping tax exemption amounts to $1 million for 2002 and 2003, $1.5 million for 2004 and 2005, $2 million for 2006-2008, and $3.5 million for 2009. The gift tax exemption amount is $1 million for gifts made in 2002 through 2010. (Secs. 2010, 2505, and 2631.)

[28] Prior to 2005, an estate was allowed a credit for State death taxes paid. Sections 561-564 of EGTRRA phased down the allowable credit amount from years 2002 through 2004, before repealing the credit and replacing it with a deduction for State death taxes paid for estates of decedents dying after 2004.

[29] Under the modified carryover basis rules in effect for decedents dying in 2010, an executor of an estate may increase, or "step-up," the basis in property passing from the estate by $1.3 million. This $1.3 million amount may be increased for certain unused built-in losses and loss carryforwards. An additional basis increase of $3 million is available for property passing to a surviving spouse. Property acquired from a decedent who died before 2010 generally received a fair market value, or "stepped up," basis. Section 541 of EGTRRA repealed the stepped-up basis rules for decedents dying after December 31, 2009. (Sec. 1014.)

Provision (Code section)	Expiration Date
28. Modifications to estate tax installment payment rules (sec. 6166(b)(1)(B)(ii), (b)(1)(C)(ii), (b)(8)(B), (b)(9)(B)(iii)(I) and (b)(10))	12/31/10
29. Tax treatment of electing Alaska Native Settlement Trusts and their beneficiaries (sec. 646)	12/31/10
30. Expansion from 90 days to 120 days the postponement of certain tax related deadlines in the case of Presidentially-declared disasters (sec. 7508A(a))	12/31/10