



No. 22

May 12, 2003

## S. 2 – Jobs and Growth Reconciliation Tax Act of 2003

Calendar No. 90

Reported by the Finance Committee on May 9, 2003, by a vote of 12-9; no written report.

### NOTEWORTHY

- C By unanimous consent, the Senate will take up S. 2, the Jobs and Growth Reconciliation Tax Act of 2003, on Monday May 12, with up to two hours of the statutory time limit being consumed; and no amendments are in order until Tuesday.
- C Under the FY 2004 budget resolution adopted by Congress (H.Con.Res. 95), the Senate Committee on Finance was required to report a reconciliation bill not later than May 8, 2003, that consists of changes in laws within its jurisdiction sufficient to reduce revenues by not more than \$322,524,000,000 and increase the total level of outlays by not more than \$27,476,000,000 for the period of fiscal years 2003 through 2013.
- C Among the strict rules governing floor consideration of reconciliation legislation, the motion to proceed to the bill is not debatable, and floor debate is limited to 20 hours. It is the Majority Leader's intention to complete action on the bill by Thursday.
- C The bill would reduce revenues (and increase outlays) by \$350 billion through 2013, including:

Jobs and Growth Act Provision	Revenue Reduction
Accelerate 10% Expansion	-\$45 Billion
Accelerate 2006 Rates	-\$74 Billion
Accelerate the Marriage Penalty Relief	-\$51 Billion
Accelerate the Child Tax Credit	-\$93 Billion
Increase Sec. 179 Expensing	-\$23 Billion
Increase AMT Exemption	-\$49 Billion
Dividend Relief	-\$81 Billion
Simplification/Small Bus./Ag. Provisions	-\$5 Billion
Revenue Offsets	+\$72 Billion

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## HIGHLIGHTS

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Below is a summary of the major tax provisions included in the Jobs and Growth Reconciliation Tax Act of 2003. A full description of all the provisions can be found on the Finance Committee's website: <http://finance.senate.gov/sitepages/leg/051203leg.pdf>. Complete revenue estimates are also available on the Committee's website at: <http://finance.senate.gov/sitepages/leg/051203table.pdf>. Unless otherwise indicated, the provisions are effective for taxable years beginning after December 31, 2002.

### **Acceleration of Previously Enacted Tax Reductions**

#### Acceleration of the Ten-Percent Regular Income Tax Rate

**Present Law.** Under present law, the 10-percent rate applies to the first \$6,000 of taxable income for single individuals, \$10,000 of taxable income for heads of households, and \$12,000 for married couples filing joint returns. Effective beginning in 2008, the \$6,000 amount will increase to \$7,000 and the \$12,000 amount will increase to \$14,000.

**S. 2** accelerates the scheduled increase in the taxable income levels for the 10-percent rate bracket. Specifically, beginning in 2003, the proposal increases the taxable income level for the 10-percent regular income tax rate brackets for single individuals from \$6,000 to \$7,000 and for married individuals filing jointly from \$12,000 to \$14,000. The taxable income levels for the 10-percent regular income tax rate bracket will be adjusted annually for inflation for taxable years beginning after December 31, 2003. Expanding the 10-percent rate bracket helps alleviate the marriage penalty.

#### Acceleration of the Reduction in Other Regular Income Tax Rates

**Present Law.** Prior to the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") the regular income tax rates were 15 percent, 28 percent, 31 percent, 36 percent, and 39.6 percent. EGTRRA added the 10-percent regular income tax rate, described above, and retained the 15-percent regular income tax rate. Also, the 15-percent regular income tax bracket was modified to begin at the end of the 10-percent regular income tax bracket. EGTRRA also made other changes to the 15-percent regular income tax bracket.

Also, under EGTRRA, the 28 percent, 31 percent, 36 percent, and 39.6 percent rates are phased down over six years to 25 percent, 28 percent, 33 percent, and 35 percent, effective after June 30, 2001. Accordingly, for taxable years beginning during 2001, the rate reduction comes in the form of a blended tax rate. The taxable income levels for the rates above the 15-percent rate in all taxable years are the same as the taxable income levels that apply under the prior-law rates.

The table below shows the schedule of regular income tax rate reductions.

## Scheduled Regular Income Tax Rate Under Current Law Due to Enactment of EGTRRA

Taxable Year	28% rate reduced to:	31% rate reduced to:	36% rate reduced to:	39.6% rate reduced to:
2001-2003	27%	30%	35%	38.6%
2004-2005	26%	29%	34%	37.6%
2006 and later	25%	28%	33%	35%

S. 2 accelerates the reductions in the regular income tax rates in excess of the 15-percent regular income tax rate that are scheduled for 2004 and 2006. Therefore, for 2003 and thereafter, the regular income tax rates in excess of 15 percent under the proposal are 25 (down from 28) percent, 28 (down from 31) percent, 33 (down from 36) percent, and 35 (down from 39.6) percent.

### Acceleration of the Alternative Minimum Tax Exemption Amounts

**Present Law.** The alternative minimum tax is the amount by which the tentative minimum tax exceeds the regular income tax. An individual's tentative minimum tax is an amount equal to (1) 26 percent of the first \$175,000 (\$87,500 in the case of a married individual filing a separate return) of alternative minimum taxable income ("AMTI") in excess of a phased-out exemption amount and (2) 28 percent of the remaining AMTI. The maximum tax rates on net capital gain used in computing the tentative minimum tax are the same as under the regular tax. AMTI is the individual's taxable income adjusted to take account of specified preferences and adjustments.

The exemption amounts are: (1) \$49,000 (\$45,000 in taxable years beginning after 2004) in the case of married individuals filing a joint return and surviving spouses; (2) \$35,750 (\$33,750 in taxable years beginning after 2004) in the case of other unmarried individuals; (3) \$24,500 (\$22,500 in taxable years beginning after 2004) in the case of married individuals filing a separate return; and (4) \$22,500 in the case of an estate or trust. 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.

S.2 increases the AMT exemption amount for married taxpayers filing a joint return and surviving spouses to \$61,000, and for unmarried taxpayers to \$41,750, for taxable years beginning in 2003, 2004, and 2005.

## Acceleration of the Marriage Penalty Relief

**Present Law.** A married couple generally is treated as one tax unit that must pay tax on the couple's total taxable income. Although married couples may elect to file separate returns, the rate schedules and other provisions are structured so that filing separate returns usually results in a higher tax than filing a joint return. Other rate schedules apply to single persons and to single heads of households.

A "marriage penalty" exists when the combined tax liability of a married couple filing a joint return is greater than the sum of the tax liabilities of each individual computed as if they were not married. A "marriage bonus" exists when the combined tax liability of a married couple filing a joint return is less than the sum of the tax liabilities of each individual computed as if they were not married.

### *Standard Deduction*

Taxpayers who do not itemize deductions may choose the basic standard deduction (and additional standard deductions, if applicable), which is subtracted from adjusted gross income ("AGI") in arriving at taxable income. The size of the basic standard deduction varies according to filing status and is adjusted annually for inflation. For 2003, the basic standard deduction for married couples filing a joint return is 167 percent of the basic standard deduction for single filers. (Alternatively, the basic standard deduction amount for single filers is 60 percent of the basic standard deduction amount for married couples filing joint returns.) Thus, two unmarried individuals have standard deductions whose sum exceeds the standard deduction for a married couple filing a joint return.

EGTRRA increased the basic standard deduction for a married couple filing a joint return to twice the basic standard deduction for an unmarried individual filing a single return. The increase in the standard deduction for married taxpayers filing a joint return is scheduled to be phased-in over five years beginning in 2005 and will be fully phased-in for 2009 and thereafter.

**S. 2** accelerates the increase in the basic standard deduction amount for joint returns to twice the basic standard deduction amount for single returns effective beginning in 2003.

### *15-percent Bracket Expansion*

**Present Law.** EGTRRA increased the size of the 15-percent regular income tax rate bracket for a married couple filing a joint return to twice the size of the corresponding rate bracket for a single individual filing a single return. The increase is phased-in over four years, beginning in 2005. Therefore, this provision is fully effective (i.e., the size of the 15-percent regular income tax rate bracket for a married couple filing a joint return is twice the size of the 15-percent regular income tax rate bracket for an unmarried individual filing a single return) for taxable years beginning after December 31, 2007.

**S. 2** accelerates the increase of the size of the 15-percent regular income tax rate bracket for joint returns to twice the width of the 15-percent regular income tax rate bracket for single returns beginning in 2003.

## Acceleration of the Child Tax Credit

**Present Law.** In accordance with EGTRRA, the Child Tax Credit is scheduled to increase to \$1,000, phased-in over several years. For 2003, an individual may claim a \$600 tax credit for each qualifying child under the age of 17.

**S. 2** accelerates the phase-in of the Child Tax Credit. The amount of the child credit is increased to \$1,000 for 2003 and thereafter. For 2003, the increased amount of the child credit will be paid in advance beginning in July 2003 on the basis of information on each taxpayer's 2002 return filed in 2003. Advance payments will be made in a similar manner to the advance- payment checks issued by the Treasury in 2001 to reflect the creation of the 10-percent regular income tax rate bracket.

## **Other Provisions**

### Sec. 179-Small Business Expensing

**Present Law.** Present law provides that, in lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct up to \$25,000 (for taxable years beginning in 2003 and thereafter) of the cost of qualifying property placed in service for the taxable year (sec. 179). In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. The \$25,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds \$200,000.

**S. 2** provides that the maximum dollar amount that may be deducted under section 179 is increased to \$75,000 for property placed in service in taxable years beginning in 2003 through 2012. In addition, the \$200,000 amount is increased to \$325,000 for property placed in service in taxable years beginning in 2003 through 2012. Both of these dollar limitations are indexed annually for inflation for taxable years beginning after 2003 and before 2013. The proposal also includes off-the-shelf computer software placed in service in a taxable year beginning in 2003 through 2012 as qualifying property. With respect to a taxable year beginning after 2002 and before 2013, the proposal permits taxpayers to make or revoke expensing elections on amended returns without the consent of the Commissioner.

The proposal is effective for taxable years beginning after December 31, 2002, and before January 1, 2013.

### Double Taxation of Dividends

**Present Law.** Under present law, a corporation pays a tax on its taxable income, generally at the rate of 35 percent. To the extent that a corporation distributes its after-tax earnings and profits as a dividend to an individual shareholder, the recipient includes the amount of the dividend in gross income

and pays tax at the shareholder's individual tax rate. The after-tax earnings and profits of a corporation consist of earnings that have been taxed to the corporation and earnings that have not been subject to tax due to exclusions, accelerated deductions and credits. A tax is imposed at capital gain rates on the gain of a shareholder at the time the shareholder sells his or her stock.

Under present law, corporations receiving dividends from domestic corporations generally are allowed a deduction of 70 percent or more of the amount of the dividends received. Certain anti-abuse rules prevent corporations from receiving low-taxed dividends and creating a capital loss. The dividends-received deduction on certain debt-financed portfolio stock is reduced.

**S. 2.** Under the proposal, an individual may exclude from gross income the first \$500 (\$250 in the case of a married individual filing a separate return) of dividends received from domestic corporations in a taxable year plus 10 percent (20 percent in the case of taxable years beginning after December 31, 2007) of the dividends received in excess of \$500 (or \$250).

The proposal is effective for taxable years beginning after December 31, 2003, and beginning before January 1, 2013.

#### Temporary State Fiscal Relief Fund

**S. 2** establishes a temporary fund to provide \$20 billion, divided among state and local governments, to be used for health care, education, or job training; transportation or infrastructure; law enforcement or public safety; and other essential government services. In addition, a portion of the total amount shall be transferred to states under Title XIX of the Social Security Act.

The provision is effective on the date of enactment.

#### Simplification, Small Business, and Agricultural Provisions

**S. 2** contains language that simplifies sections of the tax code and provides approximately \$5 billion in provisions relating to small businesses and agricultural concerns. A complete description of these provisions is available in the Finance Committee's Print located at: <http://finance.senate.gov/sitepages/leg/051203leg.pdf>.

#### Revenue Offsets

**S. 2** contains \$72 billion in revenue offsets to comply with the \$350 billion cap on revenue reductions included in the Fiscal Year 2004 Budget Resolution. A complete description of these revenue offsets is available in the Finance Committee's Print located at: <http://finance.senate.gov/sitepages/leg/051203leg.pdf>.

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## FLOOR PROCEDURE

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### Reconciliation Procedures

Bills considered by the Senate under budget reconciliation are debated under unique procedures not afforded other legislation. Here is a quick list of the major differences:

- C The motion to proceed is not debatable.
- C Floor debate is limited to 20 hours, equally divided.
- C Time spent on quorum calls — unless preceding a vote — is counted against the total time, but time spent voting is not.
- C Debate on first-degree amendments is limited to two hours. That time must expire or be yielded back before a vote can take place or a second-degree amendment can be offered.
- C Debate on second-degree amendments is limited to one hour.
- C Any debatable motions or appeals of the Chair's ruling carry a one-hour time limit.
- C Once the 20 hours have expired, amendments may still be offered and voted upon, but they cannot be debated.

### Germaneness and the Byrd Rule

Amendments to a reconciliation bill must be germane and in compliance with the Byrd Rule. Otherwise, a 60-vote point of order lies against them.

Under the precedents of the Senate, germaneness is a more narrow concept than a simple “relevance” test, which only considers subject matter. The following types of amendments are considered germane per se:

- C Committee amendments resulting from a motion to recommit;
- C Amendments to strike;
- C Amendments to change numbers or dates; and
- C Nonbinding amendments limited to matters within the jurisdiction of the committee of the reported bill.

For any amendment that does not fall into one of the categories above, germaneness is determined on a case-by-case basis by the Parliamentarian. In addition to being germane, all amendments must be offset for the first year and the sum of the first five years to avoid a Budget Act point of order.

Finally, an amendment must comply with the Byrd Rule. The Byrd Rule is designed to protect reconciliation bills from being filled with amendments not related to spending and revenue matters. This rule, named after Senator Robert C. Byrd (D-WV), applies the following rules to any reported legislation, amendment, or conference report considered under reconciliation. Material is considered extraneous if it:

- C Doesn't change outlays or revenues (unless it is a term or condition of a provision that does produce such a change);
- C Increases the deficit if the committee has failed to meet its instruction;
- C Is a provision from a committee which has no jurisdiction over the provision;
- C Would produce changes in outlays or revenues which are incidental to the non-budgetary components of the provision;
- C Creates a net outlay increase or a revenue decrease in the year following the scoring window; or
- C Affects the receipts or outlays of the Social Security trust fund.

If a Byrd Rule point of order against a provision in the reported bill is sustained, the offending provision is stricken from the bill. The Byrd Rule also bars floor amendments that would violate its terms. Finally, a Byrd Rule point of order can be made against conference report provisions and if so asserted, the offending provision is stricken from the conference report. A waiver of the Byrd Rule requires 60 votes. The Senate Budget Committee is required to produce a list of Byrd Rule violations in any reconciliation bill or conference report.

Sec. 310(d)(2) requires that all amendments be deficit neutral, but makes an exception to that requirement by saying that a motion to strike a provision shall always be in order.

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## ADMINISTRATION POSITION

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At press time, no Statement of Administration Policy was available.

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## COST

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The Joint Committee on Taxation estimates that the bill would decrease revenues (and increase outlays) by \$350 billion from FY 2003 to 2013. The complete revenue estimate is located at: <http://finance.senate.gov/sitepages/leg/051203table.pdf>.

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**POSSIBLE  
AMENDMENTS**

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Smith	Repatriation of earnings from foreign subsidiaries.
Baucus	Eliminate income taxes on the first \$5,000 in wages (\$10,000 for couples).
Rockefeller	Add \$30 billion for state fiscal relief (\$15 billion for FMAP and \$15 billion for SSGB).
Daschle	65% refundable tax credit for American farmers on Farmland Property Tax Payments.
Conrad	Make increases in the child tax credit retroactive to 2002.
Graham	Substitute.
Jeffords	Accelerate to 2003 marriage penalty relief for taxpayers claiming the EITC.
Bingaman	Emergency Unemployment Insurance.
Bingaman	Earmark a portion of the state aid fund for “Extremely Low-DSH.”

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