

## Revenue raising provisions in the Heroes Earnings Assistance and Relief Tax Act of 2008

Dear Reader,

As you may know, Congress recently passed the Heroes Earnings Assistance and Relief Tax Act of 2008 (the 2008 Heroes Act). The Act provides targeted tax relief for military members and their families. What may be less widely known is that the tax benefits are offset (i.e., paid for) with tightened expatriation rules, a new rule requiring U.S. companies working under federal government contract to treat overseas employees as subject to employment taxes, and a higher failure to file penalty. Here is a quick overview of the revenue raising provisions in the new law:

- *Revision of tax rules on expatriation.* U.S. citizens and long-term U.S. residents are subject to tax on their worldwide income. Taxpayers can avoid taxes by renouncing their U.S. citizenship or terminating their residence. The Act tightens the expatriation rules to ensure that certain high net-worth taxpayers can't renounce their U.S. citizenship or terminate their U.S. residency in order to avoid U.S. taxes. Under this provision, high net-worth individuals are treated as if they sold all of their property for its fair market value on the day before they expatriate or terminate their residency. Gain is recognized to the extent that the aggregate gain recognized exceeds \$600,000 (which will be adjusted for cost of living in the future). The provision, which applies for those who relinquish U.S. citizenship or terminate their U.S. residency on or after the enactment date, is estimated to raise \$411 million over 10 years.
- *Certain domestically controlled foreign persons performing services under contract with United States government treated as American employers.* The Act treats foreign subsidiaries of U.S. companies performing services under a U.S. government contract as American employers for employment tax purposes. Under the new law, the domestic parent is jointly liable for employment taxes imposed on the foreign subsidiary. The new provision applies to services performed in calendar months beginning more than 30 days after the enactment date and is estimated to raise \$846 million over ten years.
- *Increases general failure to file return penalty.* The Act increases the minimum penalty for a failure to file an individual tax return within 60 days of the due date to the lesser of \$135 (up from \$100) or 100 percent of the amount of tax required to be shown on the return, effective for tax returns required to be filed after 2008. The provision is estimated to raise \$296 million over ten years.

I hope this information is helpful. If you would like more details about these provisions or any other aspect of the new law, please do not hesitate to call.