



THE ECONOMIC GROWTH AND  
TAX RELIEF RECONCILIATION ACT OF 2001

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# The Economic Growth and Tax Relief Reconciliation Act of 2001

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# The Economic Growth and Tax Relief Reconciliation Act of 2001

## Introduction

The Economic Growth and Tax Relief Reconciliation Act of 2001<sup>1</sup> (the Act) is a massive tax reduction measure. Individuals are the principal beneficiaries of the Act's income tax rate reductions, marriage penalty relief, child tax credit increases, additional education incentives, retirement security enhancements, and wealth transfer tax reductions and ultimate repeal. Businesses receive virtually no direct tax relief. The product of an intense political debate, the Act provides \$1.35 trillion of tax reductions over an 11-year period.

The following is a description of the Act's provisions. However, it is important to view these provisions in perspective. The Act is unique in the extent to which the tax reductions are "back-loaded." As more fully described below, the individual rate reductions, which account for \$875 billion of the cost of the bill, do not become fully effective until 2006. While the number of taxpayers subject to wealth transfer taxes is reduced by increasing the effective exemption amount of the unified credit, the estate and generation-skipping transfer taxes are not actually repealed until 2010. Other provisions are phased in as well. Measures to alleviate the impact of the individual alternative minimum tax expire at the end of 2004.

The deferral or back-loading of the benefits was necessary to keep the cost of the Act within the limitations imposed by the Budget Resolution passed by Congress earlier this year. However, because the benefits are deferred, there is some question whether they will, in fact, take effect as scheduled -- especially if the economy in the future is not robust. In fact, due to procedural obstacles in the Senate that the proponents of the legislation were unable to overcome, the benefits provided by the Act will expire at the end of 2010 unless subsequently extended by Congress.

## Tax Rates

The reduction in tax rates begins immediately, with the creation of a new 10% tax bracket retroactive to the first of the year and a half percentage point reduction in certain other rates for 2001 (equivalent to a one percentage point reduction effective July 1, 2001). Most taxpayers will receive a refund check for the benefit of the 10% bracket reduction. The Act further reduces the rates applicable to the higher brackets, but those changes occur gradually. The change becomes fully effective in 2006, when the top individual marginal rate will be reduced from 39.6% to 35%.

The Act reduces not only the stated marginal rates, but also addresses (albeit not until 2006) the hidden increases in tax rates caused by the phase out of personal exemptions and itemized deductions. On the other hand, the rate cuts are not fully insulated from the effects of the alternative minimum tax. By 2010, the number of individuals subject to the alternative minimum tax is expected to increase at a rate more than double the rate expected prior to passage of the Act.<sup>2</sup>

## Other Presidential Priorities

The Act also addresses three other priorities President Bush set out in his campaign and in the Blueprint for New Beginnings: relief from the marriage penalty, doubling the size of the child credit, and repeal of the estate tax.

Marriage penalty relief primarily takes the form of gradually increasing both the upper limit of the 15% tax bracket and the standard deduction applicable to married couples filing a joint return until both of those amounts equal twice the amounts allowable for single taxpayers. Although these changes do not begin to

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<sup>1</sup> Pub. L. No. 107-16, 107<sup>th</sup> Cong., 1st Sess. (June 7, 2001).

<sup>2</sup> See Joint Committee on Taxation, *Estimated Budget Effects for the Conference Agreement for H.R. 1836*, JCX-51-01 (May 26, 2001).

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take effect until 2005, the new 10% tax bracket for married couples filing a joint return will be twice the size of the 10% bracket for single taxpayers, effective immediately.

The repeal of the estate tax will not occur until 2010, although the estate tax rate will gradually decline, and the amount that is exempt from estate tax will gradually increase prior to that date. The gift tax will not be repealed. Once the estate tax is repealed, a modified form of carryover basis will apply to some estates that otherwise would have been subject to tax.

### ***Other Provisions***

The Act also provides a number of retirement savings incentives, including increases in the amounts that can be contributed to IRAs and other tax-advantaged retirement plans. The Act contains a number of education incentives, including an increase in the amount that can be contributed to an education savings account, the permanent extension of the exclusion from income of employer educational assistance, and an allowance for the tax-free distribution of funds from qualified tuition plans.

As this legislation moved through Congress, many other provisions -- including a permanent extension of the research credit -- were proposed but are not included in the Act.

# The Economic Growth and Tax Relief Reconciliation Act of 2001

## Marginal Tax Rate Reduction

*The principal focus of the Act is income tax rate reduction for individual taxpayers. The Act reduces statutory tax rates for individual taxpayers at a cost of \$875 billion over the next 11 years -- almost two-thirds of the total \$1.35 trillion tax cut.*

### **New 10% Rate Bracket**

The Act creates a new 10% individual income tax bracket for a portion of the income previously taxed at 15%, retroactively effective to January 1, 2001.

The 10% rate applies to taxable income that does not exceed the following amounts:

Years	Single Taxpayers and Married Filing Separately	Heads of Households	Married Couples Filing Jointly
2001-2007	\$6,000	\$10,000	\$12,000
2008-2010	\$7,000	\$10,000	\$14,000
2011* and later	\$0	\$0	\$0

\* When the Act sunsets, there will be no 10% rate bracket.

The taxable income levels for the new 10% tax bracket -- unlike all other income tax brackets which are adjusted annually -- will not be adjusted annually for inflation until 2009.

### **15% Rate Bracket**

Generally, the 15% income tax bracket ends at the same level as under prior law. However, as part of marriage penalty relief, the upper limit of the 15% bracket for married couples filing jointly is increased gradually until it is twice the amount for single taxpayers.

### **Other Tax Rate Reductions for Individuals**

The tax rates of 28%, 31%, 36%, and 39.6% will be reduced gradually until they reach 25%, 28%, 33%, and 35%, respectively, for years beginning in 2006. The taxable income levels for the new rates are the same as under prior law.

Years	Rates			
2000	28%	31%	36%	39.6%
2001	27.5%	30.5%	35.5%	39.1%
2002-2003	27%	30%	35%	38.6%
2004-2005	26%	29%	34%	37.6%
2006-2010	25%	28%	33%	35%
2011* and later	28%	31%	36%	39.6%

\* The Act sunsets.

The benefit of the new 10% rate will take the form of a credit for 2001. Most taxpayers will automatically receive a check for the amount of the credit based on filing status and income shown on their 2000 returns. For example, a married couple filing a joint return with at least \$12,000 of taxable income in 2000 will receive a check for \$600.

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## ***Limitation on Itemized Deductions (“Pease Limitation”)***

Itemized deductions currently are reduced by 3% of the amount by which adjusted gross income (AGI) exceeds a threshold amount. The Act gradually eliminates this limitation beginning in 2006. The limitation is:

- Reduced by one-third for 2006-2007 (*i.e.*, itemized deductions will be reduced by 2% of the excess of AGI over the threshold amount)
- Reduced by two-thirds for 2008-2009 (*i.e.*, itemized deductions will be reduced by 1% of the excess of AGI over the threshold amount)
- Repealed for 2010

### ***KPMG Observation***

The repeal of the Pease provision has the effect of reducing further the marginal tax rates of taxpayers who itemize and who have AGI above the threshold amount. The extent of effective rate reduction will depend on the amount of itemized deductions claimed.

## ***Repeal of Personal Exemption Phase Out (PEP)***

Personal exemptions are phased out for taxpayers with AGI in excess of a threshold amount. For 2001, the AGI phase-out ranges are:

- \$132,950 - \$255,450 for single taxpayers
- \$166,200 - \$288,700 for heads of households
- \$199,450 - \$321,950 for married couples filing jointly

Under the Act, the amount of the deduction for personal exemptions that otherwise would be disallowed as a result of the phase out will be:

- Reduced by one-third for 2006-2007
- Reduced by two-thirds for 2008-2009
- Eliminated for 2010

In other words, taxpayers subject to PEP will continue to compute the amount that is phased out, but will reduce that amount by one-third for 2006 and 2007 and by two-thirds for 2008 and 2009.

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## **KPMG Observation**

The repeal of PEP effectively reduces the marginal tax rates on the portion of AGI falling within the phase-out range.

## **Example**

*The amount of the personal exemption for 2010 is estimated to be \$3,600. In 2010, taxpayers with marginal rates between 25% and 35% will receive a tax benefit approximately equivalent to a 0.7% to 1% reduction **per personal exemption** in marginal tax rates for AGI within the phase-out range. Thus, for example, married taxpayers with two children -- and therefore four personal exemptions -- could receive an effective cut in their marginal tax rate of approximately 2.8% to 4% (assuming a marginal tax rate between 25% and 35%).*

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## Child Tax Credit

The Act phases in an increase in the child tax credit to \$1,000 from \$500 per child.

Year	Child Tax Credit
2000	\$500
2001-2004	\$600
2005-2008	\$700
2009	\$800
2010	\$1,000
2011* and after	\$500

\* The Act sunsets.

The Act makes permanent a provision allowing the child credit to be used against the alternative minimum tax. It also repeals the alternative minimum tax offset of the refundable portion of the child credit.

Under prior law, the child credit is refundable only for families with three or more children. Beginning in 2001, the Act allows other families a refundable credit to the extent of 10% (15% for tax years beginning in 2005 to 2010) of earned income in excess of \$10,000 (indexed for inflation beginning 2002). The refundable credit for families with three or more children remains available.

### ***KPMG Observation***

The Act does not increase the level of modified AGI at which the child credit must be phased out.

### ***Other Provisions***

Included in the Act are provisions that:

- Expand the adoption tax credit and adoption assistance programs
- Exempt refunds of the child tax credit from income for purposes of determining federal assistance program eligibility
- Increase the amount of expenses and the dollar limit for purposes of the dependent care credit
- Provide a credit for employer child-care assistance expenses

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## Marriage Penalty Relief

### **Standard Deduction for Married Couples**

Beginning in 2005, the standard deduction for a married couple filing jointly is increased gradually to twice that for a single filer. The provision is fully phased in beginning in 2009.

Years	Standard Deduction for Married Couples Filing Jointly as Percentage of Standard Deduction for Single Filers
2001-2004	167%
2005	174%
2006	184%
2007	187%
2008	190%
2009-2010	200%
2011* and later	167%

\* The Act sunsets.

### **Expanded 15% Rate Bracket**

Beginning in 2005, the upper limit of the 15% income tax rate bracket for a married couple filing jointly is increased gradually to twice that for a single taxpayer. The provision is fully phased in by 2008.

Years	End Point of 15% Rate Bracket for Married Couples Filing Jointly as Percentage of End Point of 15% Rate Bracket for Single Taxpayers
2001-2004	167%
2005	180%
2006	187%
2007	193%
2008-2010	200%
2011* and later	167%

\* The Act sunsets.

### **KPMG Observation**

Married couples filing joint returns do not have to wait until 2005 for some relief because the upper limit of the new 10% income tax rate bracket is set at twice that for a single filer -- \$12,000 for married couples filing jointly compared to \$6,000 for single filers -- effective beginning in 2001.

### **Earned Income Credit (EIC) Modifications**

The Act increases the beginning and ending points of the phase-out range for the refundable EIC for married couples filing a joint return by \$1,000 in 2002-2004, by \$2,000 in 2005-2007, and by \$3,000 in 2008-2010. In addition to this partial marriage penalty relief, the Act makes several modifications to simplify and reform the EIC, consistent with the recommendations of the Joint Committee on Taxation. For example, the Act repeals the provision that reduces the EIC by the amount of an individual's alternative minimum tax. It also changes the base for the EIC from modified AGI to regular AGI. These provisions generally are effective beginning in 2002.

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## Education Incentives

### ***Exclusion for Employer-Provided Educational Assistance***

Educational expenses paid by an employer for its employees generally are deductible by the employer and are not taxable to the employees. The Act expands the exclusion for employer-provided education assistance to graduate-level courses and makes permanent the employee exclusion for both undergraduate and graduate education for courses beginning after 2001.

The exclusion was scheduled to expire after 2001.

### ***Education IRAs***

Education IRAs are tax-exempt trusts or custodial accounts established to provide tax-free funds to pay qualified education expenses of designated beneficiaries. Effective after 2001, taxpayers may contribute up to \$2,000 (increased from \$500) per beneficiary to these trusts. The \$2,000 contribution limit is phased out for:

- Married taxpayers filing a joint return with AGI between \$190,000 and \$220,000
- All other taxpayers with AGI between \$95,000 and \$110,000

The Act clarifies that corporations and other entities may make contributions to an education IRA without being subject to any income-limit phase out. Other changes:

- Allow individuals to make contributions until April 15 of the following year
- Expand the class of qualified education expenses to include elementary and secondary school expenses, as well as the costs of college and graduate-level courses
- Expand the class of qualified education expenses to include the purchase of a computer and related equipment, as well as Internet access and related services
- Modify the rule prohibiting contributions after a beneficiary attains age 18 years by providing an exception for students with special needs
- Coordinate education IRAs with HOPE and Lifetime Learning credits

### ***Prepaid Tuition Programs***

The definition of a "qualified tuition program" is expanded to include programs maintained by private educational institutions (in addition to state-sponsored tuition programs), but only for the purpose of allowing individuals to purchase tuition credits or certificates for a designated beneficiary -- *i.e.*, not for the purpose of allowing individuals to make contributions to a savings plan maintained by a private entity.

After 2001, distributions made under a qualified tuition program maintained by a state will be excluded from gross income to the extent they are used to pay "qualified higher education expenses." After 2003, the exclusion from gross income will be extended to distributions from qualified tuition programs maintained by a private entity.

The Act allows tax-free rollovers (or transfers of credits) from one program to another for the same designated beneficiary but limited to one per year, and makes other changes to the rollover rules.

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## **Student Loan Interest Deduction**

Taxpayers may deduct up to \$2,500 annually for student loan interest, subject to certain income limits. This deduction is reduced to the extent taxpayer income exceeds a specified amount, and the deduction is only available during the first 60 months that payment of interest is required.

For years after 2001, the Act increases the income phase-out ranges for eligibility to deduct student loan interest and allows a deduction without regard to the 60-month window.

	Old Phase-out Range	New Phase-out Range
Single taxpayers	\$40,000 to \$55,000	\$50,000 to \$65,000
Married couples filing jointly	\$60,000 to \$75,000	\$100,000 to \$130,000

## **Deduction for Qualified Higher Education Expenses**

An above-the-line deduction is allowed for qualified higher education expenses paid by a taxpayer for tuition and related expenses to an educational institution on behalf of the taxpayer, spouse, or dependent. The amount of the deduction is subject to income limits. No deduction is available for years after 2005.

Years	Maximum Amount of Deduction	For AGI Not Exceeding:
2002-2003	\$3,000	\$65,000 (\$130,000 for married filing jointly)
2004-2005	\$4,000*	\$65,000 (\$130,000 for married filing jointly)

\* In 2004 and 2005, for taxpayers with AGI between \$65,001 and \$80,000 (\$130,001-\$160,000 for married filing jointly), the maximum amount of the deduction is \$2,000.

Taxpayers cannot simultaneously claim a HOPE or Lifetime Learning credit and deduct higher education expenses in the same tax year with respect to the same student. A deduction, however, may be claimed in the same year as the exclusion for distributions from an education IRA or qualified tuition plan, or the exclusion for interest on education savings bonds. The deduction and exclusion may not be claimed with respect to the same expenses.

## **Other Education Provisions**

- Education awards under two federal health-related scholarship programs generally are eligible for tax-free treatment as qualified scholarships.
- The amount of governmental bonds for public schools that small governmental units may issue without being subject to the arbitrage rebate requirement is increased to \$10 million from \$5 million.
- The private activities for which tax-exempt bonds may be issued are expanded to include elementary and secondary public school facilities that are privately owned but operated by a public school system under a public-private partnership agreement.

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## Individual Alternative Minimum Tax Relief

For years 2001 through 2004, the alternative minimum tax exemption amounts are increased to:

- \$49,000 from \$45,000 for married couples filing jointly and surviving spouses
- \$35,750 from \$33,750 for other unmarried individuals
- \$24,500 from \$22,500 for married couples filing separately, estates, and trusts

Beginning in 2005, the exemption amounts will revert to prior amounts.

### ***KPMG Observation***

The temporary increase in the individual alternative minimum tax exemption amount does not increase the point at which the exemption phases out.

# The Economic Growth and Tax Relief Reconciliation Act of 2001

## Estate, Gift, and Generation-Skipping Transfer Taxes

### *Estate and Gift Taxes*

The unified estate and gift tax rates will be reduced each year until the estate tax is completely repealed in 2010. At the same time the rates are being reduced, the amount that is exempt from estate and gift taxes is being increased. The gift tax will remain in effect after repeal of the estate tax.

#### **KPMG Observation**

Tax exemption is accomplished through a unified estate and gift tax credit. The credit offsets the **tax** that would otherwise be due on transfers of the exempt amount and therefore provides the same benefit for all taxpayers. In contrast, an exemption reduces the **amount subject to tax** and effectively reduces the amount of tax at the highest marginal rates.

The table shows the rate reductions and the exemption increases for the estate and gift taxes that will occur between 2002 and 2010:

Year	Estate Transfer Exempt Amount (Applicable Exclusion Amount)	Lifetime Gift Exempt Amount	Highest Estate and Gift Tax Rates
2002	\$1 million	\$1 million	50%*
2003	\$1 million	\$1 million	49%
2004	\$1.5 million	\$1 million	48%
2005	\$1.5 million	\$1 million	47%
2006	\$2 million	\$1 million	46%
2007	\$2 million	\$1 million	45%
2008	\$2 million	\$1 million	45%
2009	\$3.5 million	\$1 million	45%
2010	Tax repealed	\$1 million	35% (gift tax)
2011**	\$1 million	\$1 million	55%

\* Reflecting repeal of the 5% surtax

\*\* The Act sunsets.

Effective for estates of decedents dying, and lifetime gifts made, after 2001.

### **Federal Credit for State Death Taxes**

The federal credit for "state death taxes" is reduced incrementally beginning in 2002, and is fully repealed in 2005. At that time, it is replaced by a deduction.

Year of Death	Maximum Rate for Computing Federal Credit for State Death Tax	Reduction from Present-Law Federal Credit for State Death Tax
2002	12%	25%
2003	8%	50%
2004	4%	75%
2005	Credit repealed; deduction is effective.	Credit repealed; deduction is effective.

Effective for estates of decedents dying after 2001.

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## ***Basis of Property Received from a Decedent***

Once the estate tax is repealed in 2010, a modified carryover basis structure will be established. Under this structure, recipients of property transferred at death generally will acquire a basis in the property equal to the lesser of the:

- Decedent's basis in the property immediately before death, or
- Date-of-death value of the property.

Basis may be further increased by \$1.3 million plus any unused capital losses, net operating losses, and certain built-in losses of the decedent. An additional \$3 million of basis increase is available for property transferred to a surviving spouse. The executor chooses the property that will receive these basis increases. However, in no event can the basis of property be adjusted above its date-of-death value.

For purposes of the basis increase:

- If certain requirements are met, the decedent will be treated as owning the spouse's share of community property for basis adjustment purposes.
- If property was owned by the decedent and surviving spouse as joint tenants or tenants by the entirety, the decedent will be treated as the owner of only 50% of the property.
- The decedent will not be treated as owning any property by reason of a power of appointment.
- The basis of property acquired by the decedent by gift during the three-year period ending on the date of death will not be increased.

The \$1.3 and \$3 million basis increases will be adjusted for inflation. Nonresidents who are not U.S. citizens may increase the basis of property by up to \$60,000 (also adjusted for inflation). Finally, the character of gain on the sale of property received from a decedent is treated the same as if the property had been acquired by gift.

Effective for estates of decedents dying in 2010.

## ***Reporting Requirements***

Testamentary transfers of property (excluding cash) with a cumulative value in excess of \$1.3 million, or of appreciated property received by the decedent within three years of death, must be reported on an information return filed by the executor with the IRS. In addition, certain information must be provided to the recipient of such property. Any return required to be filed with the IRS must be filed with the decedent's final income tax return or on such later date specified by the Secretary. Any written statement required to be furnished to the recipient of the property must be furnished within 30 days of filing the information return with the IRS.

Executors that fail to file a timely information return or statement will be subject to a penalty of:

- \$10,000 in the case of returns concerning property in excess of \$1.3 million
- \$500 in the case of returns concerning property received within three years of death
- \$50 in the case of failing to provide a statement to the recipient

Effective for estates of decedents dying after 2009.

There is a new information reporting requirement for lifetime gifts. Any individual required to file a gift tax return must provide a written statement to each person whose name is required to be included in the return, no later than 30 days after the return is filed. Failure to comply is subject to a \$50 penalty.

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## **Generation-Skipping Transfer Tax**

The generation-skipping transfer (GST) tax will be repealed in 2010. Prior to repeal, the GST provisions are modified to:

- Increase the GST exemption amount
- Allocate automatically the GST exemption to life-time “indirect skips” (*i.e.*, any transfer of property that is not a direct skip, subject to gift tax, and made to a GST trust)
- Permit a retroactive allocation of the GST exemption in the case of unusual orders of death
- Permit the severance of certain trusts at any time into GST-exempt and non-exempt trusts

These provisions are effective for transfers, deaths, or severances occurring after 2000, except the increase in the GST exemption amount is effective for transfers after 2003.

The Act also authorizes the Secretary to grant extensions of time for making elections concerning GST exemptions without regard to the statute of limitations, effective for claims pending on or after December 31, 2000.

## **Other Provisions Related to Wealth Transfer Taxes**

- The qualified family-owned business deduction is repealed for decedents dying after 2003.
- The availability of a qualified conservation easement is expanded.
- Testamentary transfers made in 2010 to nonresident aliens are treated as income tax recognition events.
- Transfers of appreciated property by the executor in satisfaction of a pecuniary bequest will continue to be treated as a sale or exchange, but gain will be recognized on the difference between the value of the property on the date of transfer and the value on the date of the decedent’s death (rather than the property’s basis). The recipient acquires a basis in the property equal to the estate’s basis, increased by any gain recognized. This is effective for estates of decedents dying in 2010. A similar rule is to apply for trusts under regulations.
- Gain generally will not be recognized by the decedent when property subject to a liability in excess of its basis is acquired by the estate or a beneficiary. The estate also will not recognize gain on the distribution of the property to a beneficiary.
- The income tax exclusion of up to \$250,000 on the sale of a principal residence is extended to estates and beneficiaries.
- Transfers to certain grantor trusts are not treated as taxable gifts.
- The rules allowing an extension of time to pay estate tax in installments are expanded.
- Copyrights, literary, musical, or artistic works, letters or memoranda, or similar properties inherited from the creator are capital assets in the hands of the recipient, except for purposes of determining the amount of an income tax charitable deduction, effective for property inherited from a decedent dying after 2009.

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## Miscellaneous Provisions

### ***Modification to Corporate Estimated Tax Requirements***

Calendar-year corporations are required to make quarterly estimated tax payments of income tax on April 15, June 15, September 15, and December 15. The Act modifies the timing of September 15 corporate estimated tax installment payments as follows:

- September 15, 2001: 100% of the payment deferred until October 1, 2001
- September 15, 2002: no change
- September 15, 2003: no change
- September 15, 2004: 20% of the payment deferred until October 1, 2004

### ***Example: Calendar-Year Corporation***

A calendar-year corporation normally makes its third estimated tax payment of the tax year on September 15. If the estimated tax for the third quarter of 2004 is \$200, the taxpayer will pay \$160 by September 15, 2004, and an additional \$40 by October 1, 2004.

For corporations with fiscal years ending:

- In September, the legislation affects *fourth* quarter payments for fiscal years 2001 and 2004.
- In May, the legislation affects *first* quarter payments for fiscal years 2002 and 2005.
- In March, the legislation affects *second* quarter payments for fiscal years 2002 and 2005.

### ***Changes to Tax Withholding Provisions***

The Act includes a number of measures bringing certain statutory provisions regarding tax withholding rates into conformity with the individual tax rates as they are adjusted downward over the phase-in period. For example, the rate of backup withholding that a payor must deduct and withhold on behalf of certain payees has been established at a statutory rate of 31%. The Act amends the statute to require payors to recompute the rate of backup withholding, based on the "fourth lowest rate of tax," in:

- 2001, when the rate of 31% is reduced to 30.5%
- 2002, when the rate is reduced to 30%
- 2004, when the rate is reduced to 29%
- 2006, when the rate eventually is reduced to 28%

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Other withholding rate changes affected by these conforming provisions include withholding on supplemental wage payments made by employers and certain gambling winnings. For payors making these payments, adjustments to the withholding rates are required to reduce the current statutory rate of 28% to the “third lowest rate of tax” or:

- 27.5% for 2001
- 27% for 2002-2003
- 26% for 2004-2005
- 25% for 2006 and later

Similarly, the amounts of tax withheld under a voluntary withholding agreement on certain federal payments and on unemployment benefits must be reduced to reflect the lower individual rates of tax.

Effective for amounts paid after the 60<sup>th</sup> day after the date of enactment.

## ***KPMG Observation***

With these changes to the withholding rates, payors must make changes to their payment systems to reflect the appropriate rates of withholding. Moreover, banks, financial institutions, and others payors required by law to present payees with written materials concerning the rate of backup withholding must modify any printed material to reflect the appropriate withholding rate.

## ***Other Provisions***

The Act:

- Expands the authority to postpone certain tax-related deadlines in the case of Presidentially declared disasters
- Excludes from income restitution payments made to victims (or their heirs) of Nazi Germany or other World War II Axis regimes

# The Economic Growth and Tax Relief Reconciliation Act of 2001

## Sunset Provisions

All of the changes made by the Act will cease to apply for tax, plan, or limitation years beginning after 2010, as well as to estates of decedents dying, gifts made, or generation-skipping transfers after 2010. At that time, the changes sunset.

This Act was passed as part of the budget reconciliation process. That process facilitated its consideration in the Senate by limiting debate and prohibiting extraneous amendments, but also imposed certain rules that otherwise would not have applied. One of those rules prohibits the consideration of legislation that would increase the deficit for a fiscal year beyond those covered by the budget reconciliation measure. Because the federal government's fiscal year ending September 30, 2011, is the last year covered by the budget reconciliation measure, the sunset is necessary to keep the Act in compliance with the rule. Although the application of this rule can be waived if 60 senators agree, that agreement was not reached.

### ***KPMG Observation***

In allowing the Act to sunset, future legislation will be required to make the provisions effective beyond their sunset date. This will entail a loss of federal revenues that, if current budget rules continue to apply, must be offset. Because the legislation's revenue cost increases in later years, finding the necessary offsets may be difficult.