

AMT Treatment of Incentive Stock Options – A Man-Made Disaster - The most Egregious and Punitive Tax Policy on the Books!

We applaud the call by Congress for repealing or fixing the AMT, and we applaud your publication for tracking and reporting on AMT. But, absent from any proposed legislation is the ISO-AMT provision. Everyone acknowledges that broad AMT repeal will take time – and unfortunately, many people who are already caught in the AMT trap are running out of time. We are not referring to the typical AMT case where households simply owe \$2000 more in taxes in a given year. **We are referring to families who are being forced into bankruptcy by having to pre-pay, on average, anywhere from 300% of their annual income to more than their entire net worth in AMT on phantom income they never made. As Rep. Sam Johnson (R-TX) states, this is the equivalent of “providing the government an interest-free loan”.**

The most flagrant application of the AMT is its treatment of Incentive Stock Options (or ISOs). Over the last 5 years, this has resulted in forcing people to pre-pay taxes on paper gains they never realized. ISOs have long served as a form of compensation for many companies across many industries for employees from the rank and file through management. Congress encourages this type of compensation by creating tax rules that benefit employees who invest in their companies for the long term rather than cashing out immediately. This aligns the goals of the employees with the goals of the company, making it good policy and sound business practice. It also contributes to the entrepreneurial engine of the US economy. However, AMT taxes arbitrary gains on ISOs when the stock is **purchased, not when the stock is sold** – all other forms of capital investment are taxed when they are sold, only if a gain is realized. By taxing before any gain is realized (before any stock is sold), the AMT is forcing people to **pay for phantom gains with real money.**

Losing the original stock investment is a standard risk everyone who invests takes. However, losing ones entire net worth, being forced into bankruptcy, and facing the threat of losing future income, due to a "broken" tax law is unfair and un-American. People are on the brink of financial ruin, suffering anxiety and depression that is so severe it is ruining their daily lives - some have even resorted to suicide.

This insidious tax trap makes Enron look like a “picnic”. Enron employees lost their retirement - with AMT on ISOs, people lose everything!

The unintended consequence of this policy places it at odds with President Bush's tenet as stated in his 2006 State of the Union address:

"Keeping America competitive begins with keeping our economy growing. And our economy grows when Americans have more of their own money to spend, save, and invest."

The AMT on ISOs is a self-reported tax - The purchase of ISO stock is not considered a taxable event under the regular tax system, so it is never formerly reported to the IRS. So, it is honest Americans who complied with the archaic AMT, not those who chose to commit tax fraud, who are facing financial ruin. Did you know that the AMT on ISOs is considered a pre-payment that is carried forward from year to year as a tax credit that is nearly impossible to recoup in the

taxpayers' lifetime?! This amounts to an interest-free loan to the government in which the government may never pay back. Here are a some examples:

- Our members in Brentwood and Germantown Tennessee who were forced to take out second mortgages and liquidate their teenagers' college funds to provide an "interest-free" loan to the government.
- The Lacy Family of Ohio and New York whose elderly mother was "robbed" of her retirement in order to help her son's family stay out of bankruptcy!
- The Brown Family of Minnesota having their wages garnished and being forced to support their family of four on \$322 a week!
- The Speltz Family of Iowa who paid \$94,000 out of a \$253,000 tax bill for what finally amounted to a \$30,000 loss after their stock was sold. The IRS is still not satisfied and wants them to sell everything they own, including their home!
- The Houston, Texas family of five who are being forced to live on \$1450 a month while the IRS penalties and interest accrue faster then payments can be made!
- Many families from Utah have had to sell their homes, some of which had been in their families for generations, to provide lifetime interest free loans to the government. This has short-changed their commitments to churches and communities.
- The Delore Family of Fremont, California who was required to pay a tax of \$420,000 on a gain of \$5,000!
- The Northern California family forced to pre-pay 2000% tax rate for which it will take 433 years to have their overpayment returned!
- The Minneapolis Minnesota family, former refugees of the USSR, summarize this policy: "Even in the former communist Soviet Union, they would never take away so much money, and I would have never thought that such thing was possible in the USA."
- The negative affect of the policy dilutes or negates a corporate intended benefit while leaving the employee less than productive and more distracted by having to fend off bankruptcy and wage garnishments.
- The new bankruptcy rules exacerbate the already dismal financial situation of these option holders.
- AMT on ISOs causes a huge "cashflow" problem by **requiring citizens to pay for phantom gains with real money**. This leaves people with the Hobson's choice of either non-compliance or selling every asset to pre-pay a tax for which there was no economic gain.
- AMT on ISOs has punished and demoralized the hard-working entrepreneurs this country so desperately needs to remain strong and competitive in a increasingly competitive global economy.

These are just a few stories from our members. There are thousands more from our membership across 48 states. We are families of Secretaries, Policemen, Engineers, Administrators, Managers, Armed Service Veterans, Executives, Nurses, Mothers and Fathers, Enlisted Servicemen/Women, Doctors and Attorney's, Sons and Daughters, Accountants and Enrolled Agents, Craftsmen, Sales/HR/Marketing Professionals, Energy and Airline staff, Academia,

Scientists and Biologists, covering every possible sector and every possible role. We are your neighbors. We are good, hardworking, honest citizens ensnared in an insidious tax trap, and we desperately need Congress and the Administration's leadership to rise to the occasion to correct this injustice. Our members have written, lobbied, and provided both oral and written testimony over the last five years.

- Members have submitted testimony to Ways and Means and various sub-Committees in the following hearings:
 - Hearing on Tax Simplification, Oversight sub-Committee (June 15, 2004)
 - Hearing on Select Tax Issues, Select Revenue Measures sub-Committee (Sept 23, 2004)
 - Hearing on Tax Reform, Full Committee (June 08, 2005)
 - Hearing on Member Proposals for Tax Reform, Select Revenue Measures sub-Committee (July 28, 2005)
 - Hearing on Member Proposals on Tax Issues submitted in the 109th, Select Revenue Measures sub-Committee (Nov 16, 2005)
- Members have submitted testimony to the President's Tax Reform Advisory Panel. March (Oct. 2005)
- Members have submitted testimony to Senator's Grassley and Baucus of the Senate Finance Committee (April 2005)
- Members have written to President Bush and various Congressional members in both bodies (March 2001 - Jan. 2006)

The AMT on ISOs has the unintended consequences and extreme affect of forcing hard-working families into indentured servitude. People don't mind paying their fair share of taxes, but "fair share" cannot be defined as a prepayment of astronomical proportions on no income!

Rep. Sam Johnson (R-TX), co-sponsor Richard Neal (D-MA), and more than 40 other bipartisan co-sponsors have introduced H.R. 3385 which is a good first step in helping those who have faced AMT on ISOs. Further, the bill also corrects the reporting loophole by requiring companies to report the purchase of ISO stock to the IRS. While Congress debates the repeal or the fix for the entire AMT, the passage of this bill is urgent in helping to save those honest Americans from total financial ruin.

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