



## **Robert W. Wood** THE TAX LAWYER

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### Scrooge V. Santa In Bush Tax Cut Debate

With only 19 shopping days 'til Christmas, you may need to make your list and check it twice. But your tax wish list is likely the same as it was over a month ago: predictability! Lords may be a' leapin' in the holiday song, but the lords of Congress are barely trudging in place. More partisan than Scrooge these days, it's looking like each side wants to plant a stake of holly in the other party's heart.

For Joe the Taxpayer, even more the Everyman than Joe the Plumber, here's a little year-end cheer. It now looks like the Bush-era tax cuts will (at last) be extended for everyone, probably for 2011 and 2012. See [Tax Deal Within Reach](#).

We already knew the [AMT Patch](#) was perhaps the most likely. Even the IRS is pushing Congress on this one, with IRS Commissioner Doug Shulman writing tax legislators to stress the need for swift action, noting the AMT patch in particular. See [December 1, 2010 letter](#). If that change alone slips into 2011, the Commissioner warned, 21 million taxpayers would be adversely affected, not to mention delays and strains on a tax system that is already creaking and moaning like Marley's Ghost.

As to the broader range of "Bush-Era Tax Cuts," part of the problem is that they need a [new name](#)! But whatever you choose to call them, it isn't definite they will be extended across the board. First it looked as though President Obama's plan for extending the cuts only for those earning under \$250,000 might prevail. See [Prospects Dimming For Post-Election Tax Cuts?](#) With Democrats smarting post-election, it looked like

\$1 million might be the ceiling. See [Schumer suggests tax compromise: No cuts over \\$1 million](#). But now a two year extension for everyone seems likely.

**Pay Now or Later?** With many big “sell or hold” questions being deferred, some of the biggest tax questions you may face are simple ones, such as whether to make payments of state income taxes in 2010. If you won’t owe AMT in 2010, you probably should. You might consider property taxes too. Paying them before New Years may make sense.

Run numbers for 2010 and 2011, but you’ll have to do some guessing about 2011, since we still don’t know rates and other details. Unless you’re very sophisticated, you are probably better off claiming benefits now, at least if you won’t pay AMT in 2010. See [A Last-Minute Tax Checklist](#).

**Charitable Contributions are Another Matter.** Until rates for 2011 are definite, you might be tempted to wait. But if the Bush tax cuts are not extended, the limitations and phase outs they curtailed will come back too. That may make your deduction worth a lot less in 2011 despite higher rates. So if you’re planning on donating to charity, 2010 is arguably safer.

**Gift and Estate Tax is Another Puzzler.** Perhaps waiting like Scrooge for three ghosts to come in one night, Congress has fouled up big time, frozen in inaction in 2008, 2009 and 2010. But now the gap between legislators has narrowed. Most Republicans favor a 35% estate tax rate on estates over \$5 million, while most Democrats favor a 45% rate on estates over \$3.5 million. See [Tax Deal Within Reach](#). But can they agree? Will the ghosts come all in one night?

**Don’t Overlook Gifts.** If you’re not doing [Ghoulish Estate Planning Before New Year’s](#), you should at least consider gifts before year end. As in the past, you can give up to \$13,000 per person each year with no gift tax. If you and your spouse each make a gift, tax-free gifts can total \$26,000. Giving to your child’s spouse or to your grandkids can add even more.

Gifts to grandchildren can make even more sense, since the Generation Skipping Tax or GST is not in effect in 2010 but springs back to life in 2011. See [Estate Tax Steps For This Year](#).

**Final Tip:** Since nothing else seems to work to get Congress' attention, try leaving milk and cookies when you go to bed. Santa can wait.

*Robert W. Wood practices law with [Wood & Porter](#), in San Francisco. The author of more than 30 books, including *Taxation of Damage Awards & Settlement Payments* (4th Ed. 2009, [Tax Institute](#)), he can be reached at [wood@woodporter.com](mailto:wood@woodporter.com). This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*