



Robert W. Wood

THE TAX LAWYER

Sep. 22 2011 — 6:16 am

Will Everyone Pay AMT Next Year?

Even **without** a Presidential Tax Increase, we all may be paying it. The [alternative minimum tax](#)—otherwise known as AMT—can spoil all your tax calculations. It may be the most insidious and counterintuitive tax there is. Even if you're good with numbers, it's hard to see it coming.

Example: You hire a contingent fee lawyer in connection with an investment and recover \$500,000. \$200,000 goes directly to your lawyer and you net \$300,000. Is your income \$300,000 or \$500,000?

Despite the direct payment to the lawyer, it's \$500,000. Plus, your legal fees are only a miscellaneous itemized deduction facing limitations. What's worse, for AMT purposes it isn't deductible at all! For more, see [AMT Problems For Attorney Fees Remain](#).

And that's just one of hundreds of examples of how the AMT can make your taxes spin out of control. A Congressional Research Service (CRS) Report, "The Alternative Minimum Tax for Individuals" says it's only going to get worse. See [CRS Says Inflation, Income Tax Reductions Will Cause More Taxpayers to Be Subjected to AMT](#). If you think this doesn't

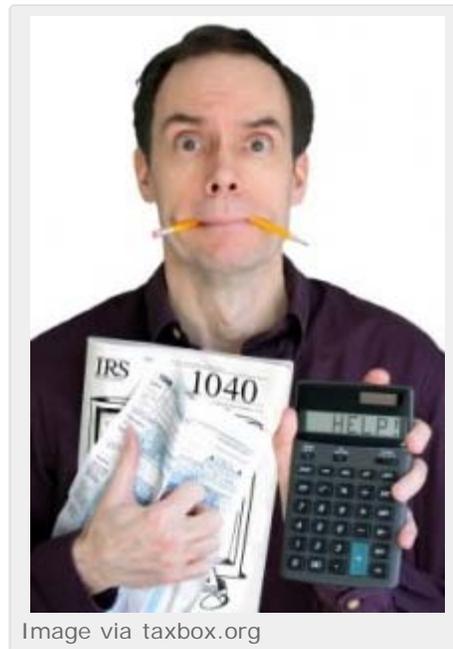


Image via taxbox.org

apply to you, think again. Consider this trend:

- In 1997, about 1% of all taxpayers were subject to the AMT.
- In 2008, about 2.8% of all taxpayers were subject to the AMT.
- In 2012, estimates suggest 20% of taxpayers will face AMT.

The AMT was enacted in 1969 to impose a minimum tax on fat cats who claimed huge and unusual tax deductions—things like drilling expenses from oil deals. But gradually the AMT grew like wildfire to cover almost everything. Whether you know it or not, your accountant may be calculating AMT for you too.

You compute regular tax and AMT, and if the AMT is higher, you must pay it. Given the ingredients that go into the AMT, you can't eyeball it. In fact, you must compute your tax both ways to tell. Even IRS Commissioner [Doug Shulman](#) practically begged Congress to fix it. Congress only slapped on a [two-year patch](#) for 2010 and 2011.

Cold Comfort. AMT *rates* are lower (generally 28%) than the regular 35% rate, but that's small comfort if you are paying it. In the legal expense example above, you might end up paying the 28% AMT on the \$200,000 of legal fees you never saw!

Doom and Gloom. Unless Congress acts, the CRS Report says around 30 million taxpayers—roughly one-fifth of all filers—will pay AMT in 2012. The regular income tax rules are indexed for inflation so they don't lose their *real* value over time. The AMT is not indexed so it's getting worse and hitting more people. Absent new legislation (like another AMT patch), the AMT exemption amounts in 2012 drop back to the old much smaller amounts. For details, see [AMT Patch Nicely Embroidered](#).

Pretty soon, maybe the AMT might become not much of an "alternative." See [Patching The AMT Means Less Anarchy](#).

For more, see:

[The Bush Tax Cuts—Better By Another Name?](#)

[AMT Explosion in 2012 Depends In Part On Where You Live](#)

[IRS: Topic 556 – Alternative Minimum Tax](#)

*Robert W. Wood practices law with [Wood LLP](#), 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@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*