MARTIN WERBELOW LLP
CERTIFIED PUBLIC ACCOUNTANTS
300 NORTH LAKE AVENUE, SUITE 930
PASADENA, CALIFORNIA 91101
TEL: (626) 577-1440 FAX: (626) 577-1082

Planning Alert
January 2010

Alternative Minimum Tax - More Taxpayers to take Hit in 2010 **–** From it's inception in 1969 to the major overhaul in 1986 to current day, alternative minimum tax has been an increasing presence in the "average" taxpayer's annual tax filings. In 1970, only 19,000 tax returns were impacted by AMT. By 2003, this number grew to 2.4 million returns. For 2009, it is estimated that 4 million tax returns will show AMT liabilities totalling approximately $33.5 billion. As we move into 2010 and the new decade, the number of tax returns impacted by AMT is expected to reach **30 million** - a whopping *750% increase* from 2009! The reason for which is relatively simple to explain.

The AMT was intended to target wealthy high-income taxpayers and disallows many deductions and exemptions allowable in computing "regular" tax liability and accounts for a separate "AMT exemption" as part of the calculation. However, due to reduced regular tax rates from various tax legislation and an AMT exemption amount which has not been inflation-indexed over the last decade, more middle-income taxpayers have become subject to the AMT - creating an AMT bracket creep. In 2006, the IRS National Taxpayer Advocates office acknowledged this and issued a report that highlighted the AMT as "*the single most serious problem with the tax code.*" They also noted that the AMT "*punishes taxpayers for having children or living in a high-tax state*" and that the AMT complexity leads to most taxpayers who owe AMT not realizing it until preparing their returns or being notified by the IRS.

With the AMT exemptions and income limits not being indexed to inflation, Congress has put a band aid on this problem since 2001 by implementing "AMT patches" on an almost annual basis. These "patches" have increased the AMT exemption to a higher and more reasonable level so that fewer "average" taxpayers are affected by AMT. For example, the current statutory AMT exemption for married taxpayers is $45,000 (compared to $40,000 in 1986). In 2006, Congress increased the exemption to $62,550 and in 2009 to $70,950. However, for 2010, the exemption reverts back to the $45,000 statutory amount which will include many more taxpayers than ever before. This makes 2010 tax and AMT planning even more important than ever before.

Legislatively, Congress is not required to "patch" the AMT problem and although all of Washington DC agrees that AMT is one of the biggest tax areas that need to be addressed, thus far, no action has been taken. If Congress chooses not to address this and not issue a 2010 "AMT patch", the average married taxpayers earning modest wages, with two kids and a home mortgage are likely to be hit with AMT. Clearly, since its inception in 1969, the alternative minimum tax has slowly lost its purpose and negatively affected middle class taxpayers. What was once a tax only for the wealthy has transitioned to also include the average middle class family.

In April 2004, the Congressional Budget Office issued a brief which concluded that "*over the coming decade, a growing number of taxpayers will become liable for the AMT. In 2010, if nothing is changed, one in five taxpayers will have AMT liability and nearly every married taxpayer with income between $100,000 and $500,000 will owe the alternative tax.*" Turns out they were right.