

AMT: Always More Tax

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Tax Legislative, Regulatory, and Ruling Practice
Professor Donald Osteen
Loyola Law School
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Monica Haven
mhaven@pobox.com

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I. INTRODUCTION

The Alternative Minimum Tax (AMT) is a legislative quagmire that ensnares ever more unsuspecting taxpayers year after year. Introduced thirty-five years ago, AMT was intended to make the U.S. income tax system more equitable. Throughout the years, this tax has been heavily modified and has evolved into an overwhelmingly complex parallel system with which many taxpayers must struggle to comply.

While the average taxpayer knows of his filing responsibilities and files his returns with at least a minimal understanding of the Internal Revenue Code as applicable to his Form 1040, he is often ignorant of his obligation to comply with the AMT. Form 6251 instructions as published by the Internal Revenue Service (IRS) require that all taxpayers complete this two-page puzzler, but only submit the completed form if in fact AMT is owed.¹ In the past, only select taxpayers have owed the tax and were required to file the AMT form. However, the Joint Committee on Taxation projects that nearly two million low-income taxpayers will soon have to

¹ “Use Form 6251 to figure the amount, if any, of your alternative minimum tax (AMT). The AMT applies to taxpayers who have certain types of income that receive favorable treatment, or who qualify for certain deductions, under the tax law... Attach Form 6251 to your return if any of the following statements is true: Form 6251, line 31, is greater than line 34; You claim any general business credit, the qualified electric vehicle credit, the non-conventional source fuel credit, or the credit for prior year minimum tax; The total of Form 6251, lines 8 through 27, is negative and line 31 would be greater than line 34 if you did not take into account lines 8 through 27.” [As excerpted from the Department of Treasury, Internal Revenue Service 2005 *Instructions for Form 6251, Alternative Minimum Tax—Individuals*.

prepare Form 6251, if only to prove that they do not owe AMT.² As a result, taxpayers—ignorant of and non-compliant with the AMT rules—dodge a bullet. Yet due to continuing modifications to the system and a lack of inflation-indexing, more taxpayers will become subject to the AMT, which in turn will impose ever-more complex filing requirements upon even some moderate-income earners. Hence, a tax once designed to establish a measure of equity between taxpayers of differing financial means, now applies to taxpayers of nearly every income strata. It has become a stealth tax that simply is not fair!

Public clamor for fairness may ultimately prevail and dictate further modifications or eventual elimination of the AMT. In fact, tax reform proposals currently under consideration in Congress include measures that will effectively raise the regular tax to offset revenues foregone under a disappearing AMT. This paper will examine the historical development of the AMT [Part II], provide a statistical analysis of its impact [Part III], discuss the rationale and critiques of the system [Part IV], outline the tax calculations involved [Part V], offer strategic considerations for affected taxpayers [Part VI], and attempt to gaze into a crystal ball to project the future of this tax [Part VII].

II. LEGISLATIVE HISTORY

In 1969 Joseph Bar, Secretary of the U.S. Treasury reported to the Joint Economic Committee that 155 individual taxpayers with incomes in excess of \$200,000 did not pay federal income tax on their 1967 tax returns.³

² *National Taxpayer Advocate, 2003 Annual Report to Congress*, Department of Treasury, Pub. 2104 (Dec. 31, 2003)

³ “In inflation-adjusted terms, those 1967 incomes would be roughly \$1.17 million in today’s dollars.” Andrew Chamberlain and Patrick Fleenor, *Background on the Individual Alternative Minimum Tax* (May

The public was outraged. Congress received more letters about this perceived unfairness than about the Vietnam War!⁴ In response, the Tax Reform Act of 1969⁵ created an add-on tax of 10% designed to trap these “evaders.” But by 1974, the U.S. Treasury reported that 244 high-income earners still had no tax liability.

The Tax Reform Act of 1976⁶ sought to correct the inequity by reducing the applicable exemption. Initially set at \$30,000, only taxpayers with AMT-taxable income above the exemption amount were subject to a tax rate of 10%. With the new rules, income in excess of \$10,000 was subject to a rate of 15%.

Further changes mandated by the Revenue Act of 1978⁷ and the Economic Recovery Tax Act of 1981⁸ added taxpayers to the AMT tax rolls. While exemption amounts for regular tax purposes were indexed for inflation, AMT exemptions remained constant. The Tax Equity and Fiscal Responsibility Act of 1982⁹ set those exemption amounts at \$30,000 for Single (S) and \$40,000 for Married-Filing-Jointly (MFJ) taxpayers. The AMT rate was set at a flat 20%.

Soon tax preference items were added. Identified as sources of potentially excessive tax savings under the regular system, preference items are those which are disallowed for AMT computation purposes. The

24, 2005). Citing: Graetz, Michael, *The U.S. Income Tax: What It Is, How It Got That Way, and Where We Go From Here*, New York: W. W. Norton and Company (1999).

⁴ Jim Saxton, Chairman Joint Economic Committee United States Congress, *The Alternative Minimum Tax For Individuals: A Growing Burden* (May 2001).

⁵ Pub. L. No. 91-172, 83 Stat. 487(1969).

⁶ Pub. L. No. 94-455, 90 Stat. 1520 (1976).

⁷ Pub. L. No. 95-600, 92 Stat. 2763 (1978).

⁸ Pub. L. No. 97-34, 95 Stat. 172 (1981).

⁹ Pub. L. No. 97-248, 96 Stat. 324 (1982).

introduction of these preferences quadrupled both the number of affected taxpayers as well as the revenue raised.¹⁰

Having found such a lucrative method by which to bolster government coffers, the Tax Reform Act of 1986¹¹ added yet more preference items, raised the tax rate to 21%, and created an exemption phase-out. Where moderate-income filers were previously unaffected, they were now more likely to become subject to the AMT.

Raised to 24% in 1990¹², the AMT rate was increased yet again three years later and now is no longer a truly flat tax with a single rate applicable to all taxpayers. Indeed, the rate was bifurcated, effectively creating a graduated tax system wherein lesser taxable incomes were—and still are—taxed at 26%, while higher taxable incomes were—and are—taxed at 28%.¹³

The 1993 Act also raised the AMT exemption to \$33,750 (S) and \$45,000 (MFJ). Despite temporary legislation¹⁴ which increased these exemptions amounts during tax years 2003 through 2005, they have otherwise remained unchanged for more than a decade and will once again become effective in 2006, barring further amendments or extensions of the temporary provisions.

As more taxpayers were affected by the AMT, public outcry demanded its repeal. Unwilling to forego the tax in its entirety, some relief was granted in 1998¹⁵ with the introduction of reduced capital gains rates which were applicable to both regular and AMT tax computations. In

¹⁰ James Maroney, Timothy Rupert, and Carol Fischer, *Alternative Minimum Tax: Bane of Middle-Income Taxpayers*, The CPA Journal, 2000 (last accessed Dec. 21, 2005).

¹¹ Pub. L. No. 99-514, 100 Stat. 2085 (1986).

¹² Pub. L. No. 101-508, 104 Stat. 1388 (1990). *Omnibus Budget Reconciliation Act of 1990*.

¹³ Pub. L. No. 103-66, 107 Stat. 312 (1993). *Omnibus Reconciliation Act of 1993*.

¹⁴ Introduced by Pub. L. No. 108-27, 117 Stat. 752 (2003). *Jobs and Growth Tax Relief Reconciliation Act of 2003*. Extended by PL 108-311, 118 Stat. 1166 (2004). *Working Families Tax Relief Act of 2004*.

¹⁵ Pub. L. No. 105-206, 112 Stat. 685 (1998). *Tax Technical Corrections Act of 1998*.

1999¹⁶, taxpayers could apply non-refundable personal credits to their regular tax liability, even if they owed AMT.¹⁷ Thus, while these credits could not reduce the tax liability below zero and generate a tax refund, the credits could now be employed where previous AMT rules prohibited such application. Similarly, the Economic Growth and Tax Relief Reconciliation Act of 2001¹⁸ allowed Adoption, Child, Earned Income, and Individual Retirement Account Credits to be claimed regardless of AMT liability, although these rules are scheduled to expire in 2010.

Created in response to the ire of disgruntled taxpayers who thought it was unfair that a select few did not pay their fair share of tax, the AMT has evolved from a “class tax” to a “mass tax.”¹⁹ For a while, new rules were continuously introduced to capture more taxpayers, but when too many became affected, the rules were amended to lessen the pervasive impact of the AMT. Nevertheless, it is estimated that the AMT will affect 33% of all taxpayers by 2010.²⁰ Ninety-five percent of all taxpayers with Adjusted Gross Income (AGI) between \$100,000 and \$500,000 will likely pay AMT.

The AMT never successfully addressed the protested unfairness that a select few did not pay an equitable portion of the income tax, but has instead become a tax that secretly affects all but the lowest income earners. As a parallel tax system that only recently has become the focus of editorials in the mass media, the public remains blissfully unaware of the AMT’s cost

¹⁶ Pub. L. No. 106-170, 113 Stat. 1860 (1999). *Tax Relief Extension Act of 1999*.

¹⁷ *Kappus v. Commissioner*, 337 F.3d 1053 (D.C. Cir.2003). Taxpayers claimed a foreign tax credit for taxes they paid to Canada on their Canadian-source income, reducing their regular U.S. tax liability to zero. But the IRS limited the allowable foreign tax credit to 90% of the taxpayers' AMT liability, arguing that this preference rule superseded any preexisting treaty obligation with which it conflicted.

¹⁸ Pub. L. No. 107-16, 115 Stat. 38 (2001). *Economic Growth And Tax Relief Reconciliation Act of 2001*.

¹⁹ Leonard Burman, William Gale, Mathew Hall, Jeffrey Rohaly, and Mohammed Adeel Saleem, *The Individual Alternative Minimum Tax: A Data Update*, (Urban-Brookings Institute 2004).

²⁰ Matthew Bailey, *The Individual Alternative Minimum Tax: No Alternative But Repeal*, NTU Policy Paper 114 (Apr. 22, 2004) at http://www.ntu.org/main/press_papers.php?PressID=577&org_name=NTU (last accessed Dec. 21, 2005). Citing: Gregg Esenwein, *The Alternative Minimum Tax for Individuals*.

until presented with a surprise bill on April 15th each year. As such, it is a stealth tax that is becoming all pervasive. And yet, about 100 taxpayers with incomes above \$1 million still did not pay *any* income tax in 2001.²¹ That's just not fair!

III. STATISTICAL ANALYSIS

In 2001, fewer than 2% of all taxpayers—whose income accounted for only 7% of AGI—paid AMT which amounted to only 1% of the total tax revenue collected. By 2010, it is estimated that the AMT will raise nearly 10% of total tax revenues.²²

Not only will AMT collections increase relative to total tax revenues, but ever more taxpayers of moderate means will be forced to foot the bill. Under current law, which effectively lowered the regular income tax while simultaneously failing to index the AMT, the number of affected taxpayers began a sudden and marked escalation in 2004. Where only 6% of taxpayers with AGI between \$15,000 and \$100,000 are currently subject to AMT, it is projected that nearly 80% of these same taxpayers will bear the burden in 2010.²³

IV. FAILED RATIONALE

Designed to rectify perceived inequities, the add-on tax of 1969 was intended to make everyone pay his fair share of tax as well as ensure that

²¹ Leonard Burman, William Gale, Jeff Rohaly, Benjamin Harris, *The AMT: Out of Control*, Tax Policy Center (Sep. 18, 2002) at <http://www.taxpolicycenter.org/publications/template.cfm?PubID=310565> (last accessed Dec. 21, 2005). The authors point out that while 100 taxpayers owed no tax at all, at least 700 did not owe tax under the regular tax system but were forced to pay under the AMT system.

²² Leonard Burman, William Gale, Mathew Hall, Jeffrey Rohaly, and Mohammed Adeel Saleem, *The Individual Alternative Minimum Tax: A Data Update*, (Urban-Brookings Institute 2004).

²³ Leonard Burman, William Gale, Jeffrey Rohaly, Benjamin Harris, *The Individual AMT: Ten Facts and Projections*, Tax Policy Center (Sep. 18, 2002) at <http://taxpolicycenter.org/publications/template.cfm?PubID=7967> (last accessed Dec. 21, 2005).

everyone paid at least some amount for the support of government. Thus, the add-on tax as originally enacted was structured in a relatively simple manner as a surtax imposed atop the regular income and was not subject to separate rules for computing taxable income. However, during the course of its evolution, the AMT has become a tax with its own distinct set of rules for income inclusion and expense deduction. While initial minimum tax legislation comprised merely “19 pages of average-sized type in the statute book,” by 1999 “AMT legislation took up 56 pages of small type.”²⁴ The resulting complexity has led even the IRS to estimate that it would take more than six hours, on average, to prepare Form 6251.²⁵

Constrained by mandates to keep tax code changes revenue neutral, Congress has often elected to institute new AMT rules rather than alter flawed tax policies under the regular tax system. As a result, taxpayers must compute the tax basis of depreciable property differently under regular and AMT tax rules. Exemptions and phase-out amounts differ as well, as do allowable deductions and credits, forcing taxpayers who want to plan proactively for potential tax liabilities to evaluate their exposure under separate systems.

Often, a tax minimization strategy under one system may in fact cause increased liability under another. For example, taxpayers have often elected to pre-pay the fourth quarter estimated tax voucher for state income tax liabilities prior to the January 15th due date. If paid during the previous year (before December 31st), taxpayers may include the payment as an itemized deduction on Schedule A, thereby reducing the federal taxable income and the attendant federal tax liability. However, because state taxes are

²⁴ Jim Saxton, Chairman Joint Economic Committee U.S. Congress, *The Alternative Minimum Tax For Individuals: A Growing Burden* (May 2001).

²⁵ *Id.* Citing: Internal Revenue Service, *Statistics of Income Bulletin*, V. 20, No. 2, Fall 2000.

considered a tax preference item, the accelerated payment will be disallowed under the AMT computation. As a result, taxpayers may no longer rely upon long-accepted strategies and must now analyze the potential tax consequence of every decision under two systems rather than one.

While this may be a boon for tax advisors, taxpayers will incur not only the added cost of the AMT tax itself, but must also carry the financial burden of expert consultation, professional preparation, and bureaucratic administration. Even though more and more taxpayers will actually be required to file AMT tax forms, there will be many who need not do so but will be too confused by the rules to know that they are exempt from filing. In fact, out of 4 million AMT returns filed in 1998, 3.4 million did not result in an AMT liability and therefore need not have been submitted.²⁶

V. TAX COMPUTATION

To determine the amount of AMT owed, if any, taxpayers must begin by calculating their “regular” taxable income—in other words, the process begins by completing Form 1040 to determine Gross Income less Adjustments and Deductions (Standard or Itemized) based upon familiar rules for income inclusion and expense deduction. The resulting Taxable Income is then transferred to Form 6251 and provides the starting point for the four-step AMT calculation, summarized below:

²⁶ Griffin, R. Jason, *The Individual Alternative Minimum Tax: Is It Touching People That It Shouldn't Be?*, Houston Business And Tax Law Journal (2004). Citing Nat'l Taxpayer Advoc., FY 2001 Ann. Rep. To Congress, I.R.S. Pub. 2104, 175 (Dec. 2001) at <http://Www.Irs.Gov/Pub/Irs-Pdf/P2104.Pdf>.

Step 1: Calculate AMT Tax Base

Regular Taxable Income
+ AMT Preferences
+ AMT Adjustments
= AMT Taxable Income
- AMT Exemption (\$40,250 S; \$58,000 MFJ in 2005)
= AMT Tax Base

Step 2: Calculate tentative AMT liability

AMT Tax Base
* AMT tax rate (26% if under \$175,000; 28% if over \$175,000)
= Pre-credit Tentative AMT Liability
- Allowable AMT Foreign Tax Credit
= Tentative AMT Liability [enter in Step 4]

Step 3: Calculate Regular Tax Liability for AMT purposes

Regular Tax before credits
- Taxes due to lump sum distributions
- Allowable Regular Tax Foreign Tax Credits
= Regular Tax Liability for AMT purposes [enter in Step 4]

Step 4: Calculate AMT Tax due

Tentative AMT Liability [from Step 2]
- Regular Tax Liability for AMT purposes [from Step 3]
= AMT Tax due (in addition to Regular Tax due)

It should be noted that the AMT remains an add-on tax of sorts in that it is due only when the Tentative AMT Liability exceeds the Regular Tax computed on Form 1040. While taxpayers are in effect liable for the greater of the AMT or Regular Tax, IRS instructions specify that the Regular Tax is always paid and that the AMT liability in excess of the regular liability is *added on* to the Regular Tax due. The resulting sum is then submitted to the IRS.

The AMT liability will only exceed the Regular Tax if sufficient Tax Preference Items and AMT Adjustments are added back to the Regular Taxable Income. Identified as potential sources of tax savings that may unfairly benefit some taxpayers, preference items include those which are commonly exploited to maximize allowable deductions and minimize the

eventual tax due. For example, under the regular tax system taxpayers may deduct medical expenses subject to a 7½ % AGI limitation, but under AMT medical expenses must exceed 10% of AGI. Thus, if a taxpayer had an AGI of \$100,000 and incurred \$10,000 of medical expenses, he could deduct \$2,500 (= \$10,000 - 7½ % of \$100,000) of these expenses on his Schedule A as an itemized deduction, but would effectively have to add back the entire deduction when calculating AMT since none of the medical expenses would exceed the AMT limitation (= \$10,000 – 10% of \$100,000).

Similarly, other items that must be considered for AMT but not regular income tax purposes include interest earned on certain private activity bonds;²⁷ state income and real property taxes; and miscellaneous deductions such as unreimbursed employee business expenses and tax preparation fees. Where amounts for these items are deductible when calculating Regular Taxable Income, they must be added back as preference items when computing AMT.²⁸

The list of adjustments is long and in many cases involves complex calculations of differing depreciation allowances or basis adjustments, and recognition of otherwise non-taxable income such as Incentive Stock Options (ISOs). Merely scratching the surface with this non-inclusive list, it becomes clear that taxpayers must calculate their tax liability under two sets of rules in parallel systems, thereby complicating tax preparation and planning immensely.

²⁷ Under regular tax calculations, interest received on all municipal bonds is federally tax exempt. However, interest earned on bonds issued to finance certain private activities (as classified by the Tax Reform Act of 1986)—including sports and convention facilities and other industrial development projects—are subject to AMT taxation.

²⁸ *Benci-Woodward v. Commissioner*, 219 F.3d 941 (9th Circ., cert. denied, 2000). Taxpayers excluded the portion of their punitive damages award retained by their attorney as fees from gross income. The Tax Court disagreed and ruled that the entire award was includible in gross income, while the contingent fees paid to the attorney were deemed Miscellaneous Itemized Deductions. As such, they were disallowed under the AMT.

Since AMT does not apply until the AMT Taxable Income exceeds the AMT Exemption, single taxpayers with incomes below \$40,250 and married taxpayers with incomes below \$58,000 need not concern themselves with AMT rules unless a taxable event occurs that suddenly raises their income level above the exemption amount. For example, recognition of a large capital gain might trigger the unpleasantness of AMT. Long-term capital gains resulting from disposition of assets held for more than one year are taxed at reduced rates with a maximum marginal rate of 15% in 2005. But because these capital gains are then included in AMT Taxable Income, other preference items become subject to a minimum rate of 26%, thereby—for practical purposes—taxing the capital gains at a much higher effective rate.²⁹

Where taxpayers might have previously wrestled with the decision to do some year-end portfolio cleaning to offset realized gains and losses or to accelerate discretionary deductions, they must now also consider the potential AMT consequences of their actions. Something as simple as Personal Exemptions (PE)—currently set at \$5,000 for every qualifying individual within the household—now becomes onerous. Historically, taxpayers sought to claim as many dependents as legally allowable to minimize their ultimate tax liability. However, because AMT computations do not consider personal exemptions, large families able to reduce their

²⁹ *Buttke v. Commissioner*, 625 F.2d 202 (8th Cir. 1980). Although appellants argued that the imposition of tax on an once-in-a-lifetime transaction was harsh and oppressive on taxpayers of modest means, the Court held that they should have anticipated the AMT because it was in existence at the time they entered into the sales transaction. AND...

Okin v. Commissioner, 808 F.2d 1338 (9th Cir., 1987). Intended to ease the burden of a progressive tax-rate schedule on a taxpayer with widely fluctuating income, income averaging did not alter the amount of includible income but merely reduced the rate at which it was to be taxed. While AMT rules, when applied, effectively eliminated this tax advantage, the Court held that the result was not contrary to Congressional intent and ruled that income averaging could not be used to determine the AMT Liability.

regular tax with PE will find that no such benefit exists under AMT.³⁰ In fact, it is estimated that PE currently account for 23% of all preference items claimed under AMT, but will account for as much as 46% by 2010.³¹

VI. AMT TAX PLANNING

While each taxpayer's situation is unique and requires individualized planning, some AMT avoidance and reduction strategies are common to all. For example, where taxpayers in the past have elected not to itemize expenses if they did not exceed the Standard Deduction, some may now prefer to file Schedule A after all. Although relatively nominal itemized deductions will not serve to reduce the Regular Tax Liability, they may help to mitigate the AMT impact, especially if the bulk of the deductions claimed are not considered preference items, such as charitable contributions and home mortgage interest.³²

Sales of securities could be strategically timed to avoid bunching realized gains into a single year rather than spreading them uniformly over several years. ISOs could be exercised soon after receipt, giving taxpayers the option to sell the acquired securities before year-end, since no AMT adjustment is required if the exercise and sale occur within the same year.³³

³⁰ *Klaassen v. Commissioner*, 1999 U.S. App. LEXIS 6320 (10th Circ., 1999). While the parents of eight children claimed that their rights to free exercise of religion had been violated, the Court upheld AMT rules denying PE deductions on the grounds that a generally applicable but neutral law was not unconstitutional merely because it had the effect of making the observance of religious beliefs prohibiting birth control more expensive.

³¹ Robert Rebelein and Jerry Tempalski, *Who Pays The Individual Amt?*, Office of Tax Analysis Paper 87 (June 2000).

³² *Marx V. Commissioner*, T.C. Summ. Op. 2003-23 (Mar. 19, 2003), 2003 Tax Ct. Summary LEXIS 22. The Tax Court held that the taxpayer could not elect to claim the Standard Deduction for regular tax and itemize for AMT purposes since AMT calculations were derived from Regular Taxable Income which was based upon selection of one or the other method of deducting expenses.

³³ 2004-16 I.R.B. 783, Notice 2004-28: *Frivolous arguments to avoid concerning statutory and nonstatutory stock options*. The Notice alerts taxpayers that the IRS will challenge positions taken upon the advice of promoters regarding income tax or AMT due when exercising stock options.

However, taxpayers should consider that the ordinary rates imposed on short-term capital gains by the regular tax system for dispositions of assets held one year or less may outweigh the benefits of the AMT savings.

There just are no easy answers. And taxpayers should always heed the caveat that while tax consequences should be considered when making financial decisions, they are not the only factor to be contemplated.

VII. THE FUTURE OF AMT

Rumblings on the Hill are building to a crescendo, but may in fact fizzle with a whimper depending upon the sway of political winds and the ferocious appetite of a bureaucracy starved for capital. Introduced in early 2005 by Senator Max Baucus (D-Montana), the ranking minority member of the Senate Finance Committee, the Individual Alternative Minimum Tax Repeal Act of 2005³⁴ sought to eliminate the AMT by year-end. However, with the new year just around the corner, neither this nor any other similar piece of legislation has been enacted, in part due to the havoc wreaked upon Gulf Coast states by Hurricanes Katrina and Rita.

Spurred by true necessity as well a collective guilt for the federal government's slow response to the disaster, Congress was quick to enact the Katrina Emergency Tax Relief Act³⁵ extending significant tax credits to affected taxpayers and generous deductions to the population as a whole. For example, in an effort to encourage private party donations to charitable organizations, contributions made to qualified entities may be deducted in full without the usual restriction limiting the tax deduction to 50% of the taxpayer's AGI. While the provision was intended to spur relief efforts

³⁴ Sen. Res. 1103, 109th Cong. (May 23, 2005).

³⁵ Pub. L. No. 109-73, 119 Stat. 2016 (2005).

geared toward the rehabilitation of New Orleans, it is applicable to all donations regardless of the receiving organization's use of the funds.

Similarly, standard mileage allowances have been increased, additional exemptions have been introduced for taxpayers housing displaced persons, and early withdrawal penalties for retirement plan distributions have been waived, as have casualty loss limitations. While these provisions are not necessarily available to all taxpayers, they nevertheless promise to significantly reduce tax collections which, together with the costs of rebuilding the coastal communities, will create budget deficits for years to come.³⁶

It is, therefore, not surprising that proposals to eliminate the AMT have been abandoned, if only temporarily. It appears that as long as voters demand tax equity, their Congressional representatives will respond with plan after plan. And some day, one such plan is bound to come to fruition...

...at significant cost. If current suggestions are any indication, revenues foregone³⁷ under the AMT system will have to be replenished under the regular income tax. Hence, rumors are circulating that the once sacrosanct mortgage deduction may be eliminated, which the National Association of Realtors projects will cause housing prices to drop by as much as 15%.³⁸

On the other hand, repeal of the AMT may spur demand for private activity bonds which would no longer be subject to discriminatory tax

³⁶ *Federal Budget*, The Clarion-Ledger (Oct. 2, 2005) at <http://www.clarionledger.com/apps/pbcs.dll/article?AID=/20051002/OPINION01/510020304/1008/OPINION> (last accessed Dec. 21, 2005).

³⁷ \$1.2 trillion over the next ten years as per Daniel Kadlec, *Why They're After your Favorite Tax Break*, TIME Magazine, 47 (Nov. 14, 2005).

³⁸ *Id.*

treatment.³⁹ An important source of revenue for state and local infrastructure, tax-free bonds allow municipalities to attract more investors and borrow at reduced rates, which may well become necessary if the deduction for state and local taxes is eliminated. Lobbyists from low-taxed states have long argued that taxpayers from such states as New York and California with marginal tax rates of 7.7 and 9.3% respectively receive an unfair benefit from this deduction. They argue that high-tax states, frequently represented by Democrats, can use this federal deduction to keep more tax dollars at home.⁴⁰

And so the argument becomes political. “DO House Republicans harbor some sort of deep rage against moderately affluent families with lots of children?”⁴¹ Andrews argues that while the AMT seems to single out residents of “blue states” on the East and West coasts, it does so more by fiscal coincidence than political design since New York, New Jersey, Connecticut, Massachusetts, and California have the highest concentrations of wealthy people, precisely those originally targeted by the AMT. Happenstance alone will not eliminate the yin and yang across the aisle. In the end, the balance will likely tilt toward tax simplification and an eventual repeal of a tax that has simply become too difficult to administer and too politically incorrect to maintain.

³⁹ Alison McConnell, *Private Activity Bonds Could Benefit from AMT Repeal*, The Bond Buyer, at <http://www.financial-planning.com/pubs/fp/20050701008.html> (last accessed Dec. 21, 2005).

⁴⁰ Wikipedia, the free encyclopedia, *Alternative Minimum Tax* at http://en.wikipedia.org/wiki/Alternative_Minimum_Tax (last accessed Dec. 21, 2005).

⁴¹ Edmund Andrews, *Hmmm. What's this Alternative Tax? Hey, Wait! Ouch!*, The New York Times (Dec. 4, 2005).