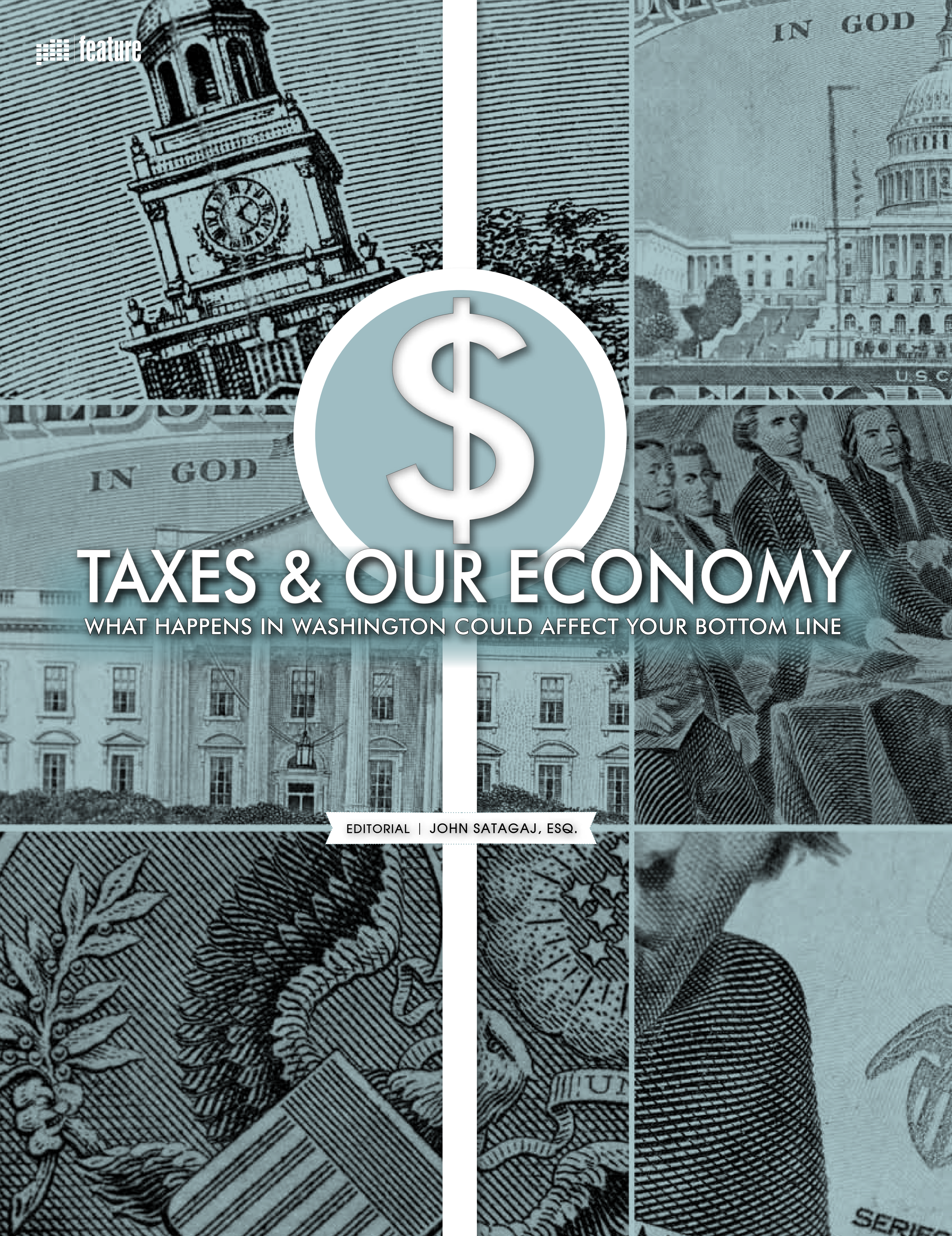


# TAXES & OUR ECONOMY

## WHAT HAPPENS IN WASHINGTON COULD AFFECT YOUR BOTTOM LINE

EDITORIAL | JOHN SATAGAJ, ESQ.


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**President Barack Obama** and the **111th Congress** hit the ground running in 2009 with efforts to put the economy back on track. The **American Recovery and Reinvestment Act** offered a smorgasbord of tax and spending initiatives and some of them, such as an increase in the direct expensing allowance and the extension of the bonus depreciation, will help manufacturers' agents that sell machinery to represent their manufacturers.

Now, we expect Congress to settle into a routine of dealing with issues in the "regular order." For manufacturers' agents, the remaining public policy agenda presents opportunities and threats.

On the positive side of the ledger, we are pursuing several tax relief initiatives. In 1986, Congress fixed a long-standing problem under the tax code to allow sole proprietors, partners, and S corporation shareholders to deduct the cost of their own health care premiums from their taxable income for income tax purposes. However, the costs of the premiums cannot be deducted from earnings for the purposes of calculating the self-employment earning tax. The self-employment earnings tax is the equivalent of the employer and employee share of FICA taxes. It totals 15.3 percent. Representatives **Ron Kind (D-WI)** and **Wally Herger (R-CA)** have introduced the **Equity for Our Nation's Self-Employed Act** to fix this anomaly. The bill number is **H.R. 1470**. Senators **Jeff Bingaman (D-NM)** and **Orrin Hatch (R-UT)** introduced the senate companion bill, **S.725**.

In 1976, Congress enacted **Section 280A** of the Internal Revenue Code, which, as amended in 1997, provides the limited circumstances in which an individual may take a deduction for expenses related to an office in the home. Generally, deductions are limited to those parts of a home that are exclusively used on a regular basis as a principal place of business or to meet with patients, clients, or customers. As many of you know, it is not a simple process to calculate the deduction. The IRS worksheet is quite "impressive."

Representatives **John McHugh (R-NY)** and **Kurt Schrader (D-OR)** have introduced **H.R. 1509**, **the Home Office Deduction Simplification Act**. H.R. 1509 is simple enough. The bill would allow otherwise qualified taxpayers to use a standard home office deduction of $1,500 rather than go through the calculations. As with all things tax relief, the problem is the pay-go rules that require revenue offsets.

We do hope Congress will provide estate tax relief. The estate tax is scheduled to be repealed in 2010 but it comes roaring back in 2011 and reverts to its old exemption and top tax rate levels of $1 million and 55 percent, respectively. We hope Congress will at least "freeze" the numbers at their 2009 levels of a $3.5 million exemption per individual and a top rate of 45 percent.

At the same time, we are worried about possible tax increases. Under the **Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA)** the top individual marginal income tax rate was reduced to 35 percent. It will return to its pre-EGTRRA level of 39.6 percent in 2011. In his Fiscal Year 2010 proposed budget, the President has recommended that Congress restore the two top rates to 36 and 39.6 percent respectively adjusted to affect only families over $250,000. For those in the top two income tax brackets – likewise adjusted to affect only families over $250,000 – he would create a new top capital gains rate of 20 percent. The top dividends rate for families making over $250,000 would be set at 20 percent.

It is a big deal for manufacturers' agents because sole proprietors, partners, and S Corporation shareholders pay taxes on business income through the individual income rate schedules. These are generally referred to as "pass-through" entities. C Corporations pay taxes at the corporate level. Most manufacturers' agents fall into the sole proprietorship, partnerships and S Corporation categories.

Congress and the President are also looking to close the "tax gap." This is the amount the Internal Revenue Service has decided that taxpayers, especially small businesses, should be paying but are not paying. We expect a barrage of proposals to close the tax gap. One of them deals with a long-time issue for manufacturers' agents – whether an individual is an independent contractor or employee for tax purposes. Legislation has not been introduced yet in this Congress but we *are* expecting it to be introduced. Whatever form this legisla-

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tion takes, one thing will be certain, it will make it more difficult for the manufacturers' agent community.

Then there are the big ticket items. The President wants to pass health care reform and a climate change bill, both of which could offer good or bad news for us. Certainly, obtaining affordable health care insurance has been the bane of many manufacturers' agents' existence. A possible approach to be offered is to create an individual mandate to obtain health care but to also provide a federal pool of private and public insurance programs from which an individual could obtain the coverage.

The bottom line is that what happens in Washington could affect your bottom line and the way you do business.

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