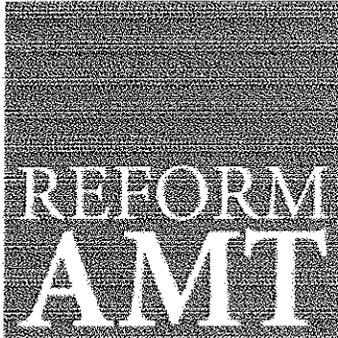


ReformAMT

March 18, 2005

PRESIDENT'S ADVISORY  
PANEL  
ON FEDERAL TAX REFORM

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**TO:** President's Advisory Panel on Tax Reform  
**FROM:** ReformAMT Leadership  
**RE:** Alternative Minimum Tax Treatment of Incentive Stock  
Options

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Formed in April 2001, ReformAMT's mission is to educate, correct, and prevent the injustices created by the Alternative Minimum Tax (AMT) and its inappropriate means of taxing Incentive Stock Options (ISO). Through ReformAMT, we urge Congress to correct this flawed tax code, which has resulted in financial devastation for our members and thousands of others across the country who are too embarrassed to publicize their dilemma. Originally intended to "ensure that a very small group of high-income individuals who paid no income tax would pay at least some income tax"<sup>1</sup>, this tax has hit hardest those employees who traded long hours, lower salaries, and a commitment to see their companies successful, for stock options which might someday provide a nest egg for their families. Unfortunately, caught in the AMT trap, these workers were forced to pre-pay taxes on stock gains they never realized.

ReformAMT has members in 48 different states, plus Puerto Rico, the District of Columbia, England, France, and Pakistan. We have members in 290 (66%) of the 435 Congressional Districts. 65% of our members affected by AMT are rank & file (as opposed to Managers, Executives and Founders). In our most recent survey (Feb. 2005), our average member owes/owed \$322,428 in AMT. Our average member has an outstanding \$213,620 credit for AMT (the current annual deduction for AMT credits is \$3,000 per year, therefore it would take 71.2 years to recoup their credit). About 3% of ReformAMT members have filed bankruptcy, with another 18% considering bankruptcy. For every 2 people who complied with the AMT regulations, there were 3 people who did not. For every 4 people who complied, there was 1 person who expatriated. We know of

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<sup>1</sup> Robert Carroll, Deputy Assistant Secretary (Tax Analysis), submitted a paper to the President's Advisory Panel on Federal Tax Reform on March 7, 2005, entitled: "The Fact Sheet: The Alternative Minimum Tax"

two members who have committed suicide over this issue. Our average tax rate was 355%.

The President's Advisory Panel has asked for clarification on the following items:

**1. Headaches, unnecessary complexity, and burdens that taxpayers face**

- Today, many rank & file taxpayers have been granted ISOs as part of their compensation, and the current AMT tax law is having an unintended effect on them
- In order to pay their AMT bills, taxpayers are forced to liquidate their assets, including their savings, retirement accounts, and their children's college funds. Many have lost their homes. Others are forced to take out 2<sup>nd</sup> mortgages and loans in order to comply with this pre-payment of tax. Those who have had all their assets seized in order to pre-pay this tax are then forced to file bankruptcy and even then, the IRS still continue to subject these taxpayers to garnishment of their future wages in perpetuity.
- People who exercised options but were "insiders" or restricted from trade as governed by SEC regulations could not avoid the AMT due to timing of both provisions, essentially two laws in conflict of each other; either way they lose.

**2. Aspects of the tax system that are unfair.**

- Imagine owing the IRS \$700,000 in AMT. Now, imagine that everything you ever worked for, your house, your retirement savings, your 401K, your children's college fund and all your tangible assets are seized by the IRS so that you can

fulfill this prepayment of taxes on money you never even saw!! Our members have suffered horribly because of this policy. Their marriages and families have suffered under the daily stress of dealing with the IRS, they have divorced, decided not to have children or to adopt children, their sick and elderly parents watch in horror as their children, who worked their entire adult lives lose everything because of how the AMT can force them into pre-paying taxes on stocks for which they never received gains. This was NOT what Congress intended it to do.

- The AMT tax credit that is generated does not pass along to your family or estate. The tax liability, if married, does not cease with your death, your spouse is still liable for the debt to IRS.
- For those who are at the limits of their earning potential or working career, the ability to recoup the credit is nearly impossible as you earn less income or retire.
- The base income subject to AMT has not been adjusted for inflation in 36 years. Every year, AMT is impacting an increasing number of middle-income households, which is not the original intent of the law (even according to the IRS). Example: "Add-on tax was enacted after Treasury reported 155 taxpayers with AGI above \$200,000 in 1966 paid no tax; gave taxpayer \$30,000 exemption. If indexed, those figures would be \$1.16 billion and \$153,500 today."<sup>2</sup>

### **3. Examples how the tax code distorts important business & personal decisions**

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<sup>2</sup> "Complexity, Compliance and Communication" Nina E. Olson, National Taxpayer Advocate, Presentation to the President's Advisory Panel on Federal Tax Reform, March 3, 2005

- Due to the complexity of AMT, tax experts and investment counselors frequently are unable to advise taxpayers or predict consequences of AMT.
- The government does not pay interest on the collected AMT that generates a credit. However, if the taxpayer owes the IRS money, they are charged penalties and interest until the bill is paid in full. Imagine paying interest and penalties on a tax overpayment you really don't owe!
- ReformAMT members who have amended their tax filings are trying to appeal to the IRS on payment of AMT for ISOs are currently facing delays as long as two or more years on these returns. The IRS can hold these returns "hostage" without ruling until the statute of limitation expires, therefore leaving our members with no legal recourse.
- The IRS's Offer in Compromise (OIC) program often takes years for a resolution, and adds the additional burden of hiring tax attorneys and accountants in order to help facilitate the process. The OIC is often unrealistic in its resolutions. According to Nina Olsen's (TAS) 2004 report to Congress, only one OIC submission under the use of Effect Tax Administration's (ETA) subjective power, which were granted to the IRS by Congress in 1998, were accepted.

#### **4. Goals that the Panel should try to achieve**

ReformAMT respectfully asks the President's Advisory Panel to abolish the AMT tax.

Outside of complete repeal of this tax, we ask that you support an immediate and critical solution that will:

- Immediately put a “stay” on IRS enforcement of this excessive tax prepayment and abate these liabilities based on phantom gain, along with interest and penalties; and
- Restore taxpayers ISO AMT prepayment credits as quickly as possible.

We ask that you consider the ReformAMT member stories that have been submitted to the Panel and others on our site at [www.ReformAMT.org](http://www.ReformAMT.org) and take into consideration that this tax was never intended to force middle class workers out of the workforce.

ReformAMT urges the panel to have the courage to recommend this focused change in the AMT law. The law as related to the AMT treatment of ISOs is fundamentally unfair and flawed, and comes at a tremendous cost to taxpayers. Our members are struggling with huge tax bills, tax attorney and accounting bills. They have pre-paid millions of dollars of taxes from stock compensation for which they never received economic gain, as some of the companies whose stock were affected are now out of business. How do you sell an asset that has no market value in order to pay tax? Our members are on the brink of financial ruin, suffering anxiety and depression that is so severe it is ruining their daily lives, while others have resorted to suicide.

Thank you for your time and we hope that you will take our voices into consideration.

Sincerely,

[ReformAMT.org](http://ReformAMT.org)