# The JGTRRA's Tax Rate Cuts: A Financial Incentive For Tax Planning By Owner/Executives Of Small To Medium Closely Held C-Corporations

Gregg S. Woodruff, (Email: gs-woodruff@wiu.edu), Western Illinois University

**ABSTRACT**

*The Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA), creates a financial incentive for the owner/executives of small to medium size closely held corporations to deviate from the Pre-JGTRRA 2002 historical allocations of average taxable corporate income before owner/executive compensation to taxable salary and qualifying dividends. For purposes of comparison, this paper summarizes the 2002 tax year average taxable corporate incomes before owner/executive compensation for small to medium size closely held corporations, the 2002 average allocations to taxable salary and bonuses or qualifying dividend income and the tax consequences of those allocations. The 2002 tax year average allocations and tax consequences calculated using the JGTRRA's tax bases and rate parameters are compared with the results of an iterative numerical search procedure that incorporates the JGTRRA's tax base and tax rate parameters to mathematically estimate tax-minimizing allocations to owner/executive salary and bonuses versus dividends. Comparisons of the estimated tax-minimizing allocations' 2004 (JGTTRA) tax consequences with the 2002 (using JGTTRA) tax year's average historical allocations' tax consequences indicate that the JGTRRA has created a financial incentive to deviate from the historical allocations to salary and bonuses versus dividends of the taxable corporate income before owner/executive compensation. One caveat or constraint to adjusting historical allocations to tax-minimizing allocations would be that the Internal Revenue Service might challenge adjusted allocations as unreasonably low salary compensation that would deprive the treasury of Social Security and Medicare taxes. Another constraint is that the iterative computations are ceteris paribus for those factors not included in the computational formula. Specifically this paper does not model for tax deferred contributions to retirement plans and does not model for the impact of the American Jobs Creation Act of 2004 and the deduction for qualified U.S. production activities.*

## INTRODUCTION

As of 2002 small and medium size corporations with total assets ranging from $1 to under $5,000,000 accounted for over 86% of the corporate tax returns filed in the United States. Taxable income reported for small to medium C-Corporations' 2002 tax year totaled 26.6 billion dollars. Though this represents only 4% of total taxable corporate income, small to medium C-Corporations approximately paid: 5.7 billion dollars in corporate income taxes, 185.36 billion dollars in owner/executive compensation, and 4.38 billion dollars in dividends (Überall et al. 2002; Luttrell 2002; and Duffy 2002). (See Table 1 in Appendix A) The tax paradigm changed with the May 23, 2003 signing of the JGTRRA that significantly reduced the upper and lower marginal tax rates for qualifying dividend income received from domestic U.S. corporations and qualifying foreign corporations. Yet, the JGTRRA did not change the previous tax laws, IRC §1(h)(11)(b), IRC §1(h)(1)(B)(i) and IRC §1(h)(1)(C), mandating that dividends paid are non-deductible in the determination of taxable corporate income. Given the new tax paradigm, the purpose of this paper is to determine if there is a financial incentive to deviate from the average historical allocations of corporate taxable income before owner/executive compensation (hereafter CIBEC) to salary and bonus compensation versus dividend distributions.

## MOTIVATION

Subject to the scrutiny of the IRS and the Tax Courts, the owner/executives of small to medium sized closely held C-corporations have considerable discretion respecting the allocation of CIBEC to taxable salary and bonuses versus dividends (Korb et al. 2004). For example, using data from publicly available Statistics of Income Bulletins, the average CIBEC can be derived for closely held C-corporations. For those closely held C-Corporations classified based on total assets as small to medium size the average CIBEC was $72,028, $135,628, and $247,615 on their (Pre-JGTRRA) 2002 corporate income tax returns and allocated, on average, 1%, 2%, and 11% of their respective class size's average CIBEC to dividends (See Table 2 in Appendix A).

Normatively, the interaction of variable allocations of CIBEC to taxable salary and bonuses versus dividends with the progressive tax rate structures in the JGTRRA, the regressive Social Security tax rate structure, and the flat Medicare tax rate structure should result in varying individual marginal tax rates and total tax liabilities that would offer a tax-minimizing planning opportunity. Data for the 2002 tax year indicates that 57% of S Corporations are owned by a single shareholder and 29.7% of S Corporations are owned by two shareholders (Luttrell 2002). If by analogy it can be deduced that significant numbers of small to medium C-Corporations are owned by a sole shareholder or two shareholders whose sole income is derived from their owned corporation's CIBEC, then the opportunity for tax-minimizing planning would be important. Therefore, since historical average CIBEC and allocations to taxable salary and bonuses versus dividends can be estimated based on data reported in publicly available Statistics of Income Bulletins, are there tax-minimizing allocations of CIBEC to salary and dividends under the JGTRRA that would provide a financial incentive to deviate from the (Pre-JGTRRA) 2002 tax year historical allocations of CIBEC?

## BASIS FOR A NUMERICAL SEARCH PROCEDURE

Necessarily, the tax laws respecting the income taxation of dividends and salary that changed as a consequence of the JGTRRA are summarized to develop the basis for developing the numerical search procedure to compute tax-minimizing allocations of CIBEC to either taxable salary and bonuses, or dividends.

The JGTRRA signed into law May 28, 2003 changed IRC §1(h)(1)(B) and IRC §1(h)(1)(C) resulting in the 20% tax rates applied to qualifying net long-term capital gains being changed to 5% or 15%. Additionally changes to IRC §1(h)(11), IRC §1(h)(1)(B)(i), and IRC §1(h)(1)(C) result in dividend income received by an individual (non-corporate) shareholder from a domestic or qualifying foreign corporation now being taxed at the net capital gains rates of either 5% or 15% dependent on the amount of the individual's qualifying taxable income. Qualifying taxable income includes income taxed at ordinary income tax rates plus income taxed at the capital gains and qualifying dividend tax rates. The benefit of reduced dividend tax rates were enacted retroactively, to January 1, 2003 and apply through December 31st 2008. For the 2008 tax year, the lowest 5% rate is reduced to 0%. The upper limit for qualifying taxable income that an individual can earn and still enjoy a 5% tax rate for dividend and capital gains income depends on the individual's filing status. Simply stated the individual taxpayer can earn up to the upper limit of the qualifying taxable income that qualifies for a 15% marginal tax rate and still have all of their qualifying dividend and capital gains income taxed at the favorable 5% rate. For each dollar that qualifying taxable income exceeds the upper threshold of the 15% marginal income tax bracket, a dollar of qualifying dividend or capital gains is taxed at the higher 15% capital gains and qualifying dividend tax rate rather than the lower 5% capital gains rate. Prior to the enactment of the JGTRRA, according to IRC §61(a)(7) and IRC § 63(a), dividends were not taxed at the extant net capital gains tax rates. Rather, they were included in the determination of ordinary taxable income. Also according to definitions contained in IRC §3121(a) and IRC §3121(b) respectively dividends were not and are not wages earned from employment. Consequently, dividends were and remain excluded from the Social Security and Medicare Tax bases.

In addition to the reduced dividend tax rates, changes in IRC §§1(a), 1(b), 1(c), and 1(d) resulted in changed tax rates for individuals, based on filing status, were changed by the JGTRRA. To summarize the changes in individual marginal tax rates after the JGTRRA became law; the 38.6% tax bracket became a 35% bracket, the pre-JGTRRA 35% bracket became a 33% bracket, the 30% bracket became a 28% bracket, the 27% bracket became a 25% bracket and the 15% and 10% brackets were expanded. Tables presenting marginal tax rates for individuals based on income brackets prior to (Table 3) and after the JGTRRA (Table 4) are located in Appendix A.

While the dividend and individual income tax rates were reduced, the tax base for Social Security was increased from $84,900 in 2002, to $87,000 in 2003, to $87,900 in 2004, and $90,000 in 2005. According to IRC §3101(a), IRC §3101(b)(6), IRC §3111(a) and IRC §3111(b)(6) respectively The employer and employee each pay Social Security taxes at a rate of 6.2% on the employee's taxable wages up to the limit of the Social Security tax base and Medicare taxes of 1.45% on all taxable wages. These Social Security and Medicare tax rates do not reflect a reduction. Also, there was no reduction in the corporate income tax rates. Corporate income tax rates based on income brackets are presented in Table 5 located in Appendix A.

## THE INTERATIVE NUMERICAL SEARCH PROCEDURE

This paper's tax-minimizing iterative numerical search procedure was conducted using Microsoft's Windows-based program EXCEL. Iterative searches were performed for the four different filing statuses. Initially using $1,000 increments to salary, the iterative numerical search procedure was used to compute the different tax consequences for the different allocations to salary and dividends. Once an initial tax-minimizing allocation of average historical CIBEC to taxable salary and bonuses versus taxable dividend income was determined with the initial $1,000 increments, additional iterations were conducted with smaller incremental amounts within a plus or minus range of $1,000 of the initial tax-minimizing allocation. After performing iterative calculations based on the variables and formulae discussed below, the tax-minimizing allocation between salary and bonus versus qualifying dividend income was identified as the allocation that resulted in the lowest total taxes and therefore, the highest after-tax net income owned or controlled by the owner/executive. Total taxes and after-tax net income owned or controlled were also calculated based on the average allocations to salary and bonus and qualifying dividend income. This allocation was made based on the following simplifying assumptions that:

1. The total income tax burden borne by the closely held corporation and its owner/executive includes FICA's Social Security and Medicare taxes, the corporate income taxes and individual (based on filing status) income taxes,
2. Spousal salary income and other income was fixed at $0, therefore AGI was composed entirely of the owner/executive's allocated salary and bonus or qualifying dividend income.
3. The closely held corporations are owned by a sole shareholder, the owner/executive, therefore all qualifying dividends allocated were included in the determination of the owner/executive's AGI,
4. Owner/executive taxable income was determined by subtracting the standard deduction and two exemptions from AGI to determine taxable income,
5. This iterative numerical search procedure did not make provision for the Alternative Minimum Tax, unemployment taxes, state income taxes, or tax-deferred contributions to retirement plans.

To provide comparative results, the iterative numerical search procedure was conducted in EXCEL so that CIBEC, the allocation to salary, and filing status tax variables in the iterative numerical search procedure could be changed.

## ITERATIVE SEARCH VARIABLES

The variables used to perform the iterative search procedure included: 1) CIBEC, 2) the Social Security tax base limit and tax rate, 3) The Medicare tax base and tax rate, 4) the applicable corporate income base, tax brackets and tax rates, 5) The standard deduction by filing status, 6) a total of two personal/dependency exemptions based on tax year, 7) the fixed average amount of after-tax corporate income by category to be allocated to retained earnings, 8) based on filing status and taxable income, either tax tables or tax rates and brackets were applied to individual ordinary (salary) income, and 9) the tax rates for qualifying dividend income were applied to qualifying dividend income.

## COMPUTATIONAL MODELS

The iterative search variables were used in the following formulae to calculate the tax consequences for the corporation of allocating CIBEC to salary and bonuses (taxable as salary). The difference of CIBEC minus the corporate tax consequences was allocated to qualifying dividends and the fixed historical average allocation to retained earnings. Tax consequences for the owner/executive, total taxes and after-tax net income (owned or controlled) were also calculated based on the formulae below:

1. Total Taxes = Corporate Income Taxes + Total Payroll Taxes+OwnerExecutive Income Taxes
2. Corporate Income Taxes = Taxable Corporate Income * Corporate Tax Rate
3. Total Payroll Taxes on CIBEC = Corporate Payroll Taxes + Individual Payroll Taxes
4. Corporate Payroll Taxes = Eligible OwnerExecutive SalaryBonus * .062 + Total OwnerExecutive SalaryBonus* .0145
5. Individual Payroll Taxes = Eligible OwnerExecutive SalaryBonus * .062 + Total OwnerExecutive SalaryBonus* .0145
6. Qualifying Dividend Income = CIBEC – OwnerExecutive SalaryBonus – Corporate Payroll Taxes – Fixed Increase to Retained Earnings
7. OwnerExecutive Income Taxes = If (Taxable Ordinary Income is greater than or equal to$100,000, Ordinary Taxable Income *The Appropriate Individual Income Tax Rates + Qualifying Dividend Income * The Appropriate Qualifying Dividend Tax Rate(s), Tax Table Tax for Ordinary Taxable Income + Qualifying Dividend Income * The Appropriate Qualifying Dividend Tax Rate(s)).
8. After-tax Net Income Owned or Controlled = CIBEC– Total Taxes

The results for applying the 2004 tax laws to the historical allocation for 2002, and the tax-minimizing allocation determined by the iterative numerical search procedures are discussed below and summarized in Tables 6, 7, and 8 in Appendix A.

## RESULTS

The results obtained from the iterative numerical search procedure indicate the following for the Married Filing Jointly or Surviving Spouse, Head of Household or Abandoned Spouse, Single, and Married Filing Separately statuses respectively:

1. Under the JGTRRA tax rates for 2004 the 2002 historical allocation of $72,028 CIBEC to $62,194 in salary and a revised $912.90 in qualifying dividends would result in total taxes of $16,443, $18,122, $19,822, and $19,993 respectively. This allocation would not be a tax-minimizing allocation under the JGTRRA rates for 2004. Tax-minimizing allocations of $72,028 CIBEC to salary and qualifying dividends for would be $20,499 and $39,064.87, $20,499, and $39,064.87, $18,249 and $40,885.37 and $18,249 and $40,885.37 with the resulting total taxes being $13,042, $14,028, $15,555 and $15,555 respectively for the filing statuses indicated above. These results are driven primarily by the interaction of the relatively low $72,028 CIBEC, corporate income taxation's $50,000 tax bracket taxed at 15% and the exclusion of dividends from the definition of wages and therefore, the FICA and Medicare Tax bases. The tax-minimizing allocations for the Single and Married Filing Separately categories would result in the largest percentage change in both the allocation to salary (a 70.66% decline) and qualifying dividends (a 4378.63% increase), while the largest percentage savings of tax dollars (23.01%) would occur for the taxpayer filing as Head of Household or Abandoned Spouse.
2. Under the JGTRRA tax rates for 2004 the 2002 historical allocation of $135,628 CIBEC to $108,880 in salary and a revised $4971 in qualifying dividends would result in total taxes of $34,479, $37,242, $39,779, and $40,556 respectively. This allocation would not be a tax-minimizing allocation under the JGTRRA rates for 2004. Tax-minimizing allocations of $135,628 CIBEC to salary and qualifying dividends for would be

$56,349 and $49,435.02 respectively for all of the filing statuses. The resulting total taxes would be $33,363, $36,123, $37,835, and $37,835 respectively for the filing statuses indicated above. These results are driven primarily by the interaction of the relatively higher $135,628 CIBEC, corporate income taxation's $50,000 tax bracket taxed at 15% and the exclusion of dividends from the definition of wages and therefore, the FICA and Medicare Tax bases, and when compared with 2002 Pre-JGTRRA tax rates the 2004 JGTTRA'S Married Filing Separately category's relatively less punitive tax structure. The tax-minimizing allocations for all categories would result in a percentage change in both the allocation to salary (a 48.25% decline) and qualifying dividends (an 894.47% increase), while the largest percentage savings of tax dollars (6.71%) would occur for the taxpayer filing as Married Filing Separately.

3. Under the JGTRRA tax rates for 2004 the 2002 historical allocation of $247,615 CIBEC to $180,689 in salary and a revised $20,450 in qualifying dividends would result in total taxes of $65,020, $68,593, $72,195, and $75,616 respectively. This allocation would not be a tax-minimizing allocation under the JGTRRA rates for 2004. Tax-minimizing allocations of $247,615 CIBEC would be $189,418 to salary and $13,908 to qualifying dividends for taxpayers filing under the Married Filing Jointly or Surviving Spouse, Head of Household or Abandoned Spouse, and the Single categories. These allocations are significant in that they represent an increase to taxable salary, where tax-minimizing allocations for lower levels of CIBEC resulted in decreased amounts allocated to salary and increased amounts allocated to dividends. Also, the tax-minimizing allocation of $247,615 CIBEC would be $170,600 to salary and $20,450 to qualifying dividends for an individual filing under the Married Filing Separately category. This result would conform to the pattern observed for the allocations of lower CIBEC amounts. The resulting total taxes would be $64,507, $68,517, $72,115 and $75,503 respectively for the filing statuses indicated above. These results are driven primarily by the interaction of the relatively high $247,615 CIBEC, corporate income taxation's $50,000 tax bracket taxed at 15% and the exclusion of dividends from the definition of wages and therefore, the FICA and Medicare Tax bases. The highest resulting total tax for the Married Filing Separately taxpayer is driven by the interaction of the above noted drivers and the more progressive tax-rate structure that still exists for higher levels of income reported under this category. The tax-minimizing allocations for the Married Filing Jointly taxpayer would result in the largest percentage change in taxes paid (-.079%) and the largest dollar decrease in nominal total taxes (-$513) tax dollar savings. These results are driven by the interaction of the above noted drivers with the expanded tax-brackets applied to the two lowest marginal tax rates enjoyed by the Married Filing Jointly taxpayers.

## CAVEATS

Though the tax savings at first glance can be optimized, the taxpayer should be aware of the unreasonable salary provisions in IRC § 162 and its corresponding regulation §1.162-7(b)(1). Taxpayers should also note that IRC §3121(a) and IRC§3121(b) differentiate remuneration for employment versus distributions of profits in the form of dividends. The 4,179.21% and 4,378.63% increases in amounts allocated to dividends when CIBEC is $72,028 would appear to indicate the practice of FICA tax-avoidance. The IRS was sustained in the *Estate of Wallace V. Commissioner, 95 TC 525,* when it restated executive or owner/executive salary that was not comparable to salaries paid by comparable firms within the same industry and reclassified salary income as dividend income because it was clear that the payments were not intended by the corporation to be compensation. Taxpayers should note that if brought to trial the IRS can rely on the determination in *Charles Schneider & Co. v. Commissioner, 500 F.2d 148, 151 (8$^{th}$ Cir. 1974)*, which stated "the reasonableness of compensation is a question of fact to be determined from the record in each case." Additionally in *Radtke v. U.S., 63 AFTR 23 89-1469,* the IRS successfully challenged and reclassified dividend as salary income when it was apparent that tax avoidance was being practiced. Given, the power to reclassify dividend income as salary income under unreasonable salary provisions for S-Corporations, the IRS would be able to reclassify dividend income as salary when it is clear that tax avoidance is being practiced. Taxpayers that made a significant change in 2003, 2004, or 2005 from salary and bonuses to qualifying dividend income could find themselves the subject of an IRS review of the previous three tax year's salary with an eye towards reclassifying portions of that salary as qualifying dividends based on the evidence provided in the tax returns filed with a Pre-JGTRRA history of salary and qualifying dividend allocations.

## CONCLUSIONS

Subject to the caveats expressed above, planning for tax-minimizing allocations under the JGTRRA would result in the greatest tax savings both nominally and expressed as a percentage for the owner/executives in the two smallest categories of continuing corporations reported in the IRS' tax statistics. For newly formed corporations that will not have a salary and qualifying dividend allocation history, the potential savings may be greatest. Irrespective, unless the JGTRRA provisions are made permanent, caution should be exercised as precedential salary and qualifying dividend allocations made through the 2008 tax year could have repercussions in 2009 and beyond.

## REFERENCES

1. Duffy, H.R. 2002. Corporations Income Tax Returns 2002. http://www.irs.gov/pub/irs-soi/02corart.pdf.
2. Korb, P.J., J.N. Sigler, and T.E. Vermeer. 2004. Dividend Tax Rate Cuts Benefit Closely Held Corporations. *The CPA Journal Online.* http://www.nysscpa.org/cpajournal/2004/1004/essentials/p40.htm
3. Luttrell, K. 2002. S Corporation Returns, 2002. http://www.irs.gov/pub/irs-soi/02scorp.pdf.
4. Überall,B., R.Collins, and K.Henry. 2002. Description of Sample and Limitations of Data. http://www.irs.gov/pub/irs-soi/02cosec3.pdf.

## APPENDIX A

**Table 1**
**Selected Corporation Data For 2002 Tax Year**
**(Money amounts in thousands)**

| Total Assets | All Firms | $1 Under $500,00 | $500,000 Under $1,000,000 | $1,000,000 Under $5,000,000 |
|---|---|---|---|---|
| # of C-Corporation Returns | 2,319,251 | 1,590,143* | 188,142 | 199,001 |
| % of Returns Filed | 100% | 68.56% | 8.12% | 8.58% |
| Cumulative % of Returns Filed | | 68.56% | 76.68% | 85.26% |
| Total Executive Compensation All Corporations | 381,235,331 | 165,466,009 | 34,066,393 | 59,796,703 |
| Total S-Corporation Executive Compensation** | 151,988,774 | 65,568,390.55 | 13,581,399.43 | 23,839,415.81 |
| Difference to C-Corporation Executive Compensation | 229,246,557 | 98,897,618.46 | 20,484,993.57 | 35,957,287.19 |
| C-Corporation Taxable Income | 600,553,517 | 8,071,605 | 3,745,018 | 11,749,521 |
| C-Corporation Income Tax before Credits | 209,691,130 | 1,488,170 | 866,634 | 3,490,308 |
| Cash/Property Dividends Attributable to C-Corporations | 401,317,290 | 1,173,951 | 659,917 | 2,549,433 |

Derived from the SOI 2002 Description of Sample and Limitations of the Data by Bertrand Überall, Richard Collins, and Kim Henry pg 8 and "Corporation Income Tax Returns, 2002" by Heather R. Duffy pg 83. The derivation of C-Corporation returns was calculated subtracting from the Total C-Corporation Returns with assets less than $50,000 an estimate of the C-Corporation Returns with total assets = 0. The estimate was calculated by multiplying the total of all corporate returns with 0 total assets time the ratio of C-Corporation returns with less than $50,000 in total assets over the total of C-Corporation plus S-Corporation returns with less than $50,000 in total assets.

** Compensation of S-Corporation Executives reported in "S Corporation Returns, 2002" by Kelly Luttrell. Allocations based on compensation per category divided by total compensation multiplied by s-corporation executive compensation.

**Table 2**
**Historical Averages C-Corporation Data 2002 Tax Year**
**(Actual Money Amounts)**

| Total Assets | $1 Under $500,00 | $500,000 Under $1,000,000 | $1,000,000 Under $5,000,000 |
|---|---|---|---|
| Average 2002 CIBEC | 72,028.05 | 135,628.33 | 247,615.29 |
| Average C-Corporation Executive Compensation | 62,194.18 | 108,880.49 | 180,688.98 |
| Average 2002 Employer Payroll Tax on Executive Compensation | 4,757.85 | 6,842.57 | 7,883.79 |
| Average 2002 Taxable Corporate Income | 5,076.02 | 19,905.27 | 59,042.52 |
| Average 2002 Corporate Income Tax* | 935.87 | 4,606.28 | 17,539.15 |
| Average 2002 Dividends | 738.27 | 3,507.55 | 12,811.16 |
| Average 2002 Addition to Retained Earnings | 3,401.88 | 11,791.45 | 28,692.22 |

* Due to the range of taxable corporate income the actual average Corporate Income Tax is greater than $761.43, the corporate income tax calculated for $5,706.02 of Taxable Corporate Income.

**Table 3**

| **Pre-JGTRRA 2002 Tax Rates** | |
|---|---|
| Married Filing Jointly and Surviving Spouse IRC §1(a)<br>If taxable income is: | The tax is: |
| Not over $12,000 | 10% of taxable income |
| Over $12,000 but not over $46,700 | $1,200 plus 15% of the excess over $12,000 |
| Over $46,700 but not over $112,850 | $6,405 plus 27% of the excess over $46,700 |
| Over $112,850 but not over $171,950 | $24,265.50 plus 30% of the excess over $112,850 |
| Over $171,950 but not over $307,050 | $41,995.50 plus 35% of the excess over $171,950 |
| Over $307,050 | $89,280.50 plus 38.6% of the excess over $307,050 |
| | |
| Head of Household IRC §1(b)<br>If taxable income is: | The tax is: |
| Not over $10,000 | 10% of taxable income |
| Over $10,000 but not over $37,450 | $1,000 plus 15% of the excess over $10,000 |
| Over $37,450 but not over $96,700 | $5,117.50 plus 27% of the excess over $37,450 |
| Over $96,700 but not over $156,600 | $21,115.50 plus 30% of the excess over $96,700 |
| Over $156,600 but not over $307,050 | $39,085 plus 35% of the excess over $156,600 |
| Over $307,050 | $91,742.50 plus 38.6% of the excess over $307,050 |
| | |
| Single IRC §1(c)<br>If taxable income is: | The tax is: |
| Not over $6000 | 10% of taxable income |
| Over $6,000 but not over $27,950 | $600 plus 15% of the excess over $6000 |
| Over $27,950 but not over $67,700 | $3892.50 plus 27%of the excess over $27,950 |
| Over $67,700but not over $141,250 | $14,625 plus 30% of the excess over $67,700 |
| Over $141,250 but not over $307,050 | $36,690 plus 35% of the excess over $141,250 |
| Over $307,050 | $94,720 plus 38.6% of the excess over $307,050 |
| | |
| Married Filing Separately IRC §1(d)<br>If taxable income is: | The tax is: |
| Not over $6,000 | 10% of taxable income |
| Over $6,000 but not over $23,350 | $600 plus 15% of the excess over $6,000 |
| Over $23,350 but not over $56,425 | $3,202.50plus 27% of the excess over $23,350 |
| Over $56,425 but not over $85,975 | $12,132.75 plus 30% of the excess over $56,425 |
| Over $85,975 but not over $153,525 | $20,997.75 plus 35% of the excess over $85,975 |
| Over $153,525 | $44,640.25 plus 38.6% of the excess over $153,525 |

**Table 4**

| Post-JGTRRA 2004 Tax Rates | |
|---|---|
| Married Filing Jointly and Surviving Spouse IRC §1(a)<br>If taxable income is: | The tax is: |
| Not over $14,300 | 10% of taxable income |
| Over $14,300 but not over $47,450 | $1,430 plus 15% of the excess over $14,300 |
| Over $58,100 but not over $114,650 | $8,000 plus 25% of the excess over $58,100 |
| Over $117,250 but not over $174,700 | $22,787.50 plus 28% of the excess over $117,250 |
| Over $178,650 but not over $311,950 | $39,979.50 plus 33% of the excess over $178,650 |
| Over $319,100 | $86,328 plus 35% of the excess over $319,100 |
| | |
| Head of Household IRC §1(b) | |
| Not over $10,200 | 10% of taxable income |
| Over $10,200 but not over $38,050 | $1,020 plus 15% of the excess over $10,200 |
| Over $38,900 but not over $98,250 | $5,325 plus 25% of the excess over $38,900 |
| Over $100,500 but not over $159,100 | $20,725 plus 28% of the excess over $100,500 |
| Over $162,700 but not over $311,950 | $38,141 plus 33% of the excess over $162,700 |
| Over $319,100 | $89,753 plus 35% of the excess over $319,100 |
| | |
| Single IRC §1(c)<br>If taxable income is: | The tax is: |
| Not over $7,150 | 10% of taxable income |
| Over $7,150 but not over $29,050 | $715 plus 15% of the excess over $7,150 |
| Over $29,050 but not over $68,800 | $4,000 plus 25% of the excess over $29,050 |
| Over $70,350 but not over $143,500 | $14,325 plus 28% of the excess over $70,350 |
| Over $146,750 but not over $311,950 | $35,717 plus 33% of the excess over $146,750 |
| Over $319,100 | $92,592.50 plus 35% of the excess over $319,100 |
| | |
| Married Filing Separately IRC §1(d)<br>If taxable income is: | The tax is: |
| Not over $7,150 | 10% of taxable income |
| Over $7,150 but not over $29,050 | $715 plus 15% of the excess over $7,150 |
| Over $29,050 but not over $58,625 | $4,000 plus 25% of the excess over $29,050 |
| Over $58,625 but not over $89,325 | $11,393.75 plus 28% of the excess over $58,625 |
| Over $89,325 but not over $159,550 | $19,989.75 plus 33% of the excess over $87,350 |
| Over $159,550 | $43,164 plus 35% of the excess over $159,550 |

**Table 5**

| Pre and Post JGTRRA Corporate Tax Rate Schedule | |
|---|---|
| Not over $50,000 | 15% of taxable income |
| Over $50,000 but not over $75,000 | $7,500 plus 25% of the excess over $50,000 |
| Over $75,000 but not over $100,000 | $13,750 plus 34% of the excess over $75,000 |
| Over $100,000 but not over $335,000 | $22,250 plus 39% of the excess over $100,000 |
| Over $335,000 but not over $10,000,000 | $113,900 plus 34% of the excess over $335,000 |
| Over $10,000,000 but not over $15,000,000,000 | $3,400,000 plus 35% of the excess over $10,000,000 |
| Over $15,000,000 but not over $18,333,333 | $5,150,000 plus 38% of the excess over $15,000,000 |
| Over $18,333,333 | $6,416,667 plus 35% of the excess over $18,333,333 |

**Table 6**

| JGTRRA Applied to $72,028 CIBEC<br>Tax-Minimizing Allocations Vs. 2002 Historical Average Allocations | | | | |
|---|---|---|---|---|
| | **CIBEC** | **Salary/Bonus** | **Qualifying dividends** | **Total Taxes** |
| **MFJ/SS** | | | | |
| Tax-minimizing Allocation JGTRRA | $72,028 | $20,499 | $39,064.87 | 13,042 |
| Average 2002 Allocation Using 2004 JGTRRA | $72,028 | $62,194 | $912.90* | $16,549 |
| Nominal Dollar Change From Average 2002 Allocation | | -$41,695 | $38,152 | -$3,507 |
| % Change From Average 2002 Allocation | | -67.04% | 4179.21% | -21.19% |
| **HH/Abandoned Spouse** | | | | |
| Tax-minimizing JGTRRA | $72,028 | $20,499 | $39,064.87 | $14,028 |
| Average 2002 Allocation Using 2004 JGTRRA | $72,028 | $62,194 | $912.90* | $18,220 |
| Nominal Dollar Change From Average 2002 Allocation | | -$41,695 | $38,152 | -$4,192 |
| % Change From Average 2002 Allocation | | -67.04% | 4179.21% | -23.01% |
| **Single** | | | | |
| Tax-minimizing JGTRRA | $72,028 | $18,249 | $40,885.37 | $15,555 |
| Average 2002 Allocation Using 2004 JGTRRA | $72,028 | $62,194 | $912.90* | $19,933 |
| Nominal Dollar Change From Average 2002 Allocation | | -$43,945 | $39,972 | -$4,378 |
| % Change From Average 2002 Allocation | | -70.66% | 4378.63% | -21.97% |
| **MFS** | | | | |
| Tax-minimizing JGTRRA | $72,028 | $18,249 | $40,885.37 | $15,555 |
| Average 2002 Allocation Using 2004 JGTRRA | $72,028 | $62,194 | $912.90* | $19,933 |
| Nominal Dollar Change From Average 2002 Allocation | | -$43,945 | $39,972 | -$994 |
| % Change From Average 2002 Allocation | | -70.66% | 4378.63% | -21.97% |

* The difference from average dividends of $738.27 reported in Table 2 is due to holding the historical increase to retained earnings constant and adding the difference from calculated corporate income tax vs. the historical average corporate income tax to the average historical dividend.

**Table 7**

| JGTRRA Applied to $135,628 CIBEC<br>Tax-Minimizing Allocations Vs. 2002 Historical Average Allocations | | | | |
|---|---|---|---|---|
| | **CIBEC** | **Allocated Salary/Bonus** | **Allocated Qualifying dividends** | **Total Taxes** |
| **MFJ/SS** | | | | |
| Tax-minimizing JGTRRA | $135,628 | $56,349 | $49,435.02 | $33,363 |
| Average 2002 Allocation Using 2004 JGTRRA | $135,628 | $108,880 | $4,971* | $34,479 |
| Nominal Dollar Change From Average 2002 Allocation | | -$52,531 | $44,464 | -$1,117 |
| % Change From Average 2002 Allocation | | -48.25% | 894.47% | -3.24% |
| **HH/Abandoned Spouse** | | | | |
| Tax-minimizing JGTRRA | $135,628 | $56,349 | $49,435.02 | $36,123 |
| Average 2002 Allocation Using 2004 JGTRRA | $135,628 | $108,880 | $4,971* | $37,242 |
| Nominal Dollar Change From Average 2002 Allocation | | -$52,531 | $44,464 | -$1,119 |
| % Change From Average 2002 Allocation | | -48.25% | 894.47% | -3.00% |
| **Single** | | | | |
| Tax-minimizing JGTRRA | $135,628 | $56,349 | $49,435.02 | $37,835 |
| Average 2002 Allocation Using 2004 JGTRRA | $135,628 | $108,880 | $4,971* | $39,779 |
| Nominal Dollar Change From Average 2002 Allocation | | -$52,531 | $44,464 | -$1,944 |
| % Change From Average 2002 Allocation | | -48.25% | 894.47% | -4.89% |
| **MFS** | | | | |
| Tax-minimizing JGTRRA | $135,628 | $56,349 | $49,435.02 | $37,835 |
| Average 2002 Allocation Using 2004 JGTRRA | $135,628 | $108,880 | $4,971* | $40,556 |

| | | | | |
|---|---|---|---|---|
| Nominal Dollar Change From Average 2002 Allocation | | -$52,531 | $44,464 | -$2,721 |
| % Change From Average 2002 Allocation | | -48.25% | 894.47% | -6.71% |

* The difference from average dividends of $3,507.55 reported in Table 2 is due to holding the historical increase to retained earnings constant and adding the difference from calculated corporate income tax vs. the historical average corporate income tax to the average historical dividend.

**Table 8**

| **JGTRRA Applied to $247,615 CIBEC<br>Tax-Minimizing Allocations Vs. 2002 Historical Average Allocations** | | | | |
|---|---|---|---|---|
| | **CIBEC** | **Allocated Salary/Bonus** | **Allocated Qualifying dividends** | **Total Taxes** |
| **MFJ/SS** | | | | |
| Tax-minimizing JGTRRA | $247,615 | $189,418 | $13,808.57 | $64,506.69 |
| Average 2002 Allocation Using 2004 JGTRRA | $247,615 | $180,689 | $20,450* | $65019.65 |
| Nominal Dollar Change From Average 2002 Allocation | | $8,729 | -$6,642 | -$513 |
| % Change From Average 2002 Allocation | | 4.83% | -32.48% | -0.79% |
| **HH/Abandoned Spouse** | | | | |
| Tax-minimizing JGTRRA | $247,615 | $189,418 | $13,808.57 | $68,516.59 |
| Average 2002 Allocation Using 2004 JGTRRA | $247,615 | $180,689 | $20,450* | $68,593.10 |
| Nominal Dollar Change From Average 2002 Allocation | | $8,729 | -$6,642 | -$76 |
| % Change From Average 2002 Allocation | | 4.83% | -32.48% | -0.11% |
| **Single** | | | | |
| Tax-minimizing JGTRRA | $247,615 | $189,418 | $13,808.57 | $72,115.09 |
| Average 2002 Allocation Using 2004 JGTRRA | $247,615 | $180,689 | $20,450* | $72,191.60 |
| Nominal Dollar Change From Average 2002 Allocation | | $8,729 | -$6,642 | -$77 |
| % Change From Average 2002 Allocation | | 4.83% | -32.48% | -0.11% |
| **MFS** | | | | |
| Tax-minimizing JGTRRA | $247,615 | $170,600 | $28,126.62 | $75,502.94 |
| Average 2002 Allocation Using 2004 JGTRRA | $247,615 | $180,689 | $20,450.15* | $75,616.38 |
| Nominal Dollar Change From Average 2002 Allocation | | $8,729 | -$6,642 | -$113 |
| % Change From Average 2002 Allocation | | -5.58% | +37.54% | -0.15% |

* The difference from average dividends of $12,811.15 reported in Table 2 is due to holding the historical increase to retained earnings constant and adding the difference from calculated corporate income tax vs. the historical average corporate income tax to the average historical dividend.