



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

April 28, 2008

The Honorable Togiola T.A. Tulafono
Governor of American Samoa
Office of the Governor
Executive Office Building – Third Floor
P.O. Box 485
Pago Pago, American Samoa 96799

Dear Governor Tulafono:

Thank you for your letter of April 23, 2008, submitting the Distribution Plan for the Recovery Rebates (the Plan) in American Samoa. The Economic Stimulus Act of 2008, P.L. 110-185 (the Act), requires that I approve American Samoa's plan for distributing stimulus payments to residents of American Samoa. The Act also requires that once such a plan is approved, the Treasury Department make a payment to American Samoa in an amount estimated as being equal to the aggregate benefits that would have been provided to residents of American Samoa by reason of the amendments made to the Internal Revenue Code by section 101(c) of the Act if a "mirror code" tax system had been in effect in American Samoa.

In accordance with the Act, I approve the Plan, a copy of which is enclosed. Also, we have estimated the aggregate benefits that would have been provided to residents of American Samoa by reason of section 101(c) of the Act if a mirror code tax system had been in effect in American Samoa at \$20.4 million. A payment in this amount will be made by the Treasury Department to American Samoa to fund the prompt distribution of stimulus payments to residents of American Samoa pursuant to the Plan.

Sincerely,

Henry M. Paulson, Jr.

Enclosure

**AMERICAN SAMOA
TREASURY DEPARTMENT**

2008

**DISTRIBUTION PLAN FOR THE
RECOVERY REBATES**

*Togiola T.A. Tulafono
Governor of American Samoa*

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1 Introduction

This Plan for the Distribution of Recovery Rebates has been developed by the American Samoa Treasury Department ("ASTD") and approved by the U.S. Secretary of the Treasury, pursuant to the requirements in Section 101(c) of the Economic Stimulus Act of 2008, Pub. L. 110-185 (the "Act"). The Act establishes that in order for American Samoa to be able to receive funds from the U.S. Department of the Treasury for the distribution to its residents of the recovery rebates authorized in the Act, American Samoa must have a plan, approved by the Secretary of the Treasury, under which American Samoa will promptly distribute the recovery rebates to its residents.

Section 101(c) (1)(B) of the Act establishes that the payment to be made by the U.S. Secretary of the Treasury to American Samoa will be "in an amount estimated by the Secretary as being equal to the aggregate benefits that would have been provided to residents of American Samoa by reason of the amendments made by this section if a mirror code tax system had been in effect in such possession." The Act does not prescribe any specific rules as to how the funds are to be distributed to residents of American Samoa. The Act simply states that funds have to be distributed "promptly," keeping in line with the overall economic stimulus purposes of the legislation. It is in the interest of both American Samoa and the U.S. Department of the Treasury that all funds made available to American Samoa be distributed promptly through rebate payments.

American Samoa has adopted as its income tax laws the income tax laws in force in the United States on December 31, 2000. For example, the tax rates, standard deduction, and personal exemption in American Samoa are the same as they were in the U.S. Internal Revenue Code in force on December 31, 2000 (2000 U.S. Code). However, American Samoa has added to the 2000 U.S. Code a minimum income tax of 4 percent of adjusted gross income on individuals. As a result of the similarity between the income tax laws of American Samoa and the United States, American Samoa will generally be able to determine the recovery rebate that its residents would have been eligible to receive by reason of the amendments made by the Act if a mirror code tax system had been in effect in American Samoa. Consequently, this Plan establishes a plan for distribution of the recovery rebates to residents of American Samoa based on the same eligibility requirements as the Act provides for residents of the U.S. mainland, with two minor amendments to reflect the definition of "gross income" and "earned income" in the American Samoa income tax laws.

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This Plan establishes a procedure for the distribution of advance payment of rebates using information from 2007 income tax returns that were filed in 2008. ASTD will use 2008 income tax returns filed in 2009 to make final rebate payments to eligible individuals. American Samoa will make advance rebate payments for timely filed 2007 tax returns in calendar year 2008 and make final rebate payments for timely filed 2008 tax returns in 2009. American Samoa will resolve disputes with respect to these rebates by December 31, 2010.

All tax references in the Plan are to the American Samoa income tax laws, unless otherwise specified.

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2 Definitions

For purposes of recovery rebates, the following definitions apply:

- a. Net income tax liability. The term "net income tax liability" means the excess of the taxpayer's individual income tax liability over nonrefundable credits as determined under the American Samoa tax laws with adjustments to reflect the individual income tax rates, personal exemption and standard deduction provided in the Internal Revenue Code of 1986, as amended (IRC).
- b. Earned income. The term "earned income" means wages, salaries, tips and other employee compensation included in gross income, the amount of net income from self employment reported on the Form 390 (American Samoa Individual Income Tax Return), and combat zone pay excluded from American Samoa gross income, but reported in a W-2 form filed with the taxpayer's income tax return.
- c. Social Security benefit. The term "social security benefit" means any amount received by the individual as a monthly benefit under title II of the Social Security Act or a tier 1 railroad retirement benefit. The term "social security benefit" does not include any benefits as a result of the Supplemental Security Income ("SSI") or Aid to the Aged, Blind and Disabled ("AABD") programs.
- d. Veterans benefit. The term "veteran's benefit" means any disability, pension, or survivor's benefit received under chapters 11, 13, or 15 of the title 38 of the United States Code.
- e. Joint return. The term "joint return" means a tax return filed with the ASTD by married taxpayers using the "Married living with spouse and filing jointly" filing status as defined in the American Samoa income tax laws.
- f. Combat zone pay. The term "combat zone pay" means remuneration for serving in the U.S. Armed Forces in a combat zone, which is any area that the President of the United States designates by Executive Order as an area in which the U.S. Armed Forces are engaging or have engaged in combat.
- g. Recovery Rebate. The term "Recovery Rebate" means the sum of the Basic Recovery Rebate (defined in Section 3.3) and Child Recovery Rebate (defined in Section 3.4) for which an individual is eligible.

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3 Determination of Eligibility and Amount of Recovery Rebate

3.1 Eligible Individuals

Any individual who is a resident of American Samoa, under the American Samoa income tax laws, other than:

- a. An estate or trust, or
- b. An individual who is eligible to be claimed as a dependent on another American Samoa income tax return or a U.S. income tax return.

3.1.1 Identification requirement

To be eligible for the Basic Recovery Rebate, an individual must file a tax return with a valid social security number issued by the Social Security Administration for said individual, the spouse if a joint return is filed, and any children for whom a Child Recovery Rebate will be paid. The absence of valid social security numbers for dependent children will not disqualify an individual from receiving the basic rebate to which he or she is entitled. Anyone filing using an Individual Taxpayer Identification Number will be ineligible for a rebate.

3.2 Filing obligation

In order to be eligible to receive a Recovery Rebate, eligible individuals are required to file an individual income tax return for the year they are claiming the Recovery Rebate, even if the individual would not have otherwise had an income tax filing obligation (e.g., certain Social Security benefit recipients).

3.3 Basic Recovery Rebate

3.3.1 Amount

The "Basic Recovery Rebate" for an eligible individual is equal to the greater of:

- a. Net income tax liability up to \$600 (\$1,200 for a joint return); or
- b. \$300 (\$600 for a joint return) if the individual satisfies one of the following criteria:
 - i. The sum of earned income, social security benefits and veterans benefits is at least \$3,000, or

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- ii. Net income tax liability is greater than zero and gross income is greater than the sum of the standard deduction and personal exemption.

For this purpose, the American Samoa income tax law shall be used to determine the amount of the Basic Recovery Rebate with the following modifications: a taxpayer's income tax liability shall be determined using the tax rates, personal exemption and standard deduction provided in the IRC for the relevant tax year.

3.4 Child Recovery Rebate

3.4.1 Eligibility

The Child Recovery Rebate (as defined in section 3.4.2) may be claimed only by an individual eligible to receive a Basic Recovery Rebate greater than zero.

3.4.2 Amount

The "Child Recovery Rebate" is equal to \$300 for each qualifying child of the eligible individual.

3.4.3 Qualifying child

For purposes of the Child Recovery Rebate, the term "qualifying child" has the same meaning as the term has in section 24(c) of the IRC.

3.5 Limitation on Recovery Rebates

The combined amount of the Basic and Child Recovery Rebates shall be reduced, but not below zero, by five percent of the taxpayer's adjusted gross income as determined under the American Samoa income tax laws that exceeds \$75,000 (\$150,000 in the case of a joint return).

3.6 Special Rules

3.6.1 Exclusion from income

Any payment attributable to Recovery Rebates shall not be taken into account as taxable income.

3.6.2 Joint returns

In the case of an Advance Payment made with respect to a joint return, half of the amount shall be treated as having been made or allowed to each individual filing such return.

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3.6.3 Federally funded programs

Any payment attributable to Recovery Rebates shall not be taken into account as resources for the month of receipt and the following two months, for purposes of determining the eligibility of any individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or any program financed in whole or in part with Federal funds.

3.6.4 Offsets by ASTD for debts to ASTD

The ASTD shall deduct or offset from the Basic and Child Recovery Rebates to an individual any allowable offsets under American Samoa law for tax refunds.

3.6.5 No offsets by taxpayers

Taxpayers shall not deduct any anticipated rebate amounts from their tax liability to the ASTD for any tax year.

3.6.6 Fraud or mistake

If any taxpayer receives a Recovery Rebate from the ASTD based on incorrect information provided by the taxpayer or information omitted by the taxpayer as a result of either fraud or mistake, or if the taxpayer is otherwise not eligible for a rebate paid to him or her by the ASTD, the ASTD may claim such incorrectly paid rebate from the taxpayer through any method available to the ASTD to collect debts from taxpayers, and any amount recovered from the taxpayer, except interests and penalties, shall be deposited in the Recovery Rebate Fund.

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4 Advance Payment of Recovery Rebates

4.1 Determination of Advance Payment

ASTD shall make a payment to eligible individuals in the amount of the Recovery Rebate (less any applicable offsets) that each individual would have been allowed if the provisions of section 3 were effective for 2007 ("Advance Payment"). The amount of the Advanced Payment will be based on valid 2007 American Samoa individual income tax return information available as of November 30, 2008.

4.2 Filing Obligation

In order to be eligible to receive an Advanced Payment, eligible individuals are required to file a 2007 individual income tax return.

4.3 Timing of Payment

4.3.1 Timely returns

Advanced Payments based on 2007 individual income tax returns filed on or before April 15, 2008 will be processed for payment by the ASTD between May 1, 2008 (but not before American Samoa receives the payment for the estimated aggregate recovery rebate benefits from the U.S. Department of the Treasury) and July 31, 2008.

4.3.2 Late returns

Advanced Payments based on 2007 individual income tax returns filed after April 15, 2008 but on or before November 30, 2008 will be paid by the ASTD by December 31, 2008. ASTD will not make Advanced Payments for 2007 tax returns filed after November 30, 2008 and will not make any Advanced Payments after December 31, 2008. For 2007 tax returns filed after April 15, 2008, Advanced Payments will be handled on a first come, first serve basis until the balance of the Recovery Rebate Fund is zero.

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5 Final Payment of Recovery Rebates

5.1 *Determination of Final Payment Amount*

The ASTD shall make a final payment of Recovery Rebates ("Final Payment") to eligible individuals who file 2008 American Samoa individual income tax returns by October 15, 2009 (or later in the case of eligible military personnel, as described in Section 5.3.2). The Final Payment will be the difference between the Recovery Rebate that each individual would have been allowed if the provisions of Section 3 were effective for the 2008 tax year and the amount the taxpayer was paid as an Advance Payment; however, an eligible individual's Final Payment will be net of any applicable offsets. Individuals who were eligible for a greater Recovery Rebate based on their 2007 information (compared to what they would be eligible for based on their 2008 information) will not be required to return any funds.

5.2 *Filing obligation*

In order to be eligible to receive a Final Payment, eligible individuals are required to file a 2008 individual income tax return on or before October 15, 2009.

5.3 *Timing of Payment*

5.3.1 *Timely returns*

Final Payments based on 2008 individual income tax returns filed on or before April 15, 2009 will be processed for payment by the ASTD between May 1, 2009 (but not before American Samoa receives the payment for the estimated aggregate recovery rebate benefits from the U.S. Department of the Treasury) and July 31, 2009.

5.3.2 *Late returns*

Final Payments based on 2008 individual income tax returns filed after April 15, 2009, but on or before October 15, 2009 will be paid by the ASTD between July 1, 2009 and December 31, 2009. The ASTD will not make any Final Payments based on 2008 individual income tax returns filed after October 15, 2009 and will not make any Final Payments after December 31, 2009, except in the case of certain military personnel.

For 2008 tax returns filed after April 15, 2009, Final Payments will be handled on a first come, first serve basis until the balance of the Recovery Rebate Fund is zero.

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A reserve will be created to pay any rebates that can be claimed by individuals that are permitted to file their 2008 tax returns after October 15, 2009 as provided in the Internal Revenue Code section 7508 and the American Samoa tax laws because they are serving in the military in active duty outside of the United States.

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6 Coordination with U.S. Government

6.1 Dual Filers

Individuals eligible to receive a Recovery Rebate from the ASTD are not eligible to receive a recovery rebate from the U.S. Department of the Treasury.

6.2 Information Sharing

The ASTD will provide the IRS, on a monthly basis, in electronic format, the following information for individuals receiving a Recovery Rebate from ASTD during the previous month:

- a. Name of rebate recipient and spouse;
- b. Social security number of rebate recipient, spouse and dependants for whom a child credit is claimed;
- c. Address of rebate recipient;
- d. Amount of recovery rebate and child credit issued;
- e. Date of issuance of rebate; and
- f. Filing Status of rebate recipient.

ASTD will transmit the monthly reports by the 15th day, following the close of the month.

Any exchange of taxpayer information between ASTD and the IRS will be conducted under the Tax Implementation Agreement Between the United States and American Samoa date January 7, 1988 or as otherwise authorized by law.

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7 Recovery Rebate Fund

7.1 Establishment of Trust Fund

The Secretary of the ASTD has established a trust fund at the Bank of Hawaii, Pago Pago Branch, herein referred to as the "Recovery Rebate Fund."

- a. Amounts received from the U.S. Secretary of the Department of the Treasury to cover the estimated aggregate cost of the Recovery Rebates paid by the ASTD shall be deposited in the Recovery Rebate Fund.
- b. The balance of the Recovery Rebate Fund shall be reduced by withdrawals equivalent to payments made by the ASTD of recovery rebates.
- c. Overpayments of Recovery Rebates reclaimed by the ASTD shall be deposited in the Recovery Rebate Fund.
- d. The Recovery Rebate Fund shall have no authority to borrow.
- e. The funds received by the ASTD from the U.S. Department of the Treasury shall be used exclusively for the payment of Recovery Rebates, and not for administrative expenses.
- f. Any interest generated by funds in the Recovery Rebate Fund shall not be credited to the Recovery Rebate Fund and may be deposited in a separate account of the ASTD at the Bank of Hawaii. If the funds in the Recovery Rebate Fund are extinguished, however, and there are individuals eligible to receive Recovery Rebates that have not received the amount to which they are entitled under this Plan, the ASTD shall deposit into the Recovery Rebate Fund any interest earned on the amount received from the U.S. Department of the Treasury that would be necessary to pay rebates that cannot otherwise be paid with the funds remaining in the Recovery Rebate Fund.
- g. The ASTD shall submit to the U.S. Department of the Treasury quarterly reports indicating the amount of funds in the Recovery Rebate Fund, the amount of funds paid in rebates during such quarter, and the amount of offsets during such quarter. Quarterly reports shall be submitted within 45 days of the end of a quarter. Quarters will be January to March, April to June, July to September and October to December.

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7.2 *Return of Unused Amounts*

The remaining balance of the Recovery Rebate Fund less the reserve to pay any rebates that can be claimed by individuals that are permitted to file their 2008 tax returns after October 15, 2009 (as described in Section 5.3.2) shall be returned to the Secretary of the U.S. Department of the Treasury without interest by December 31, 2010. ASTD will certify to the Secretary of the U.S. Department of the Treasury the amount of the reserve needed as of December 31, 2010 to pay rebates to individuals who are permitted to file their 2008 tax returns after October 15, 2009 as provided in the Internal Revenue Code section 7508 and the American Samoa tax laws because they are serving in the military in active duty outside of the United States. Any reserve remaining in the Recovery Rebate Fund on June 30, 2011 shall be returned to the Secretary of the U.S. Department of the Treasury without interest on June 30, 2011.

7.3 *Liability of the United States*

Consistent with Section 101(c) of the Act, the U.S. Department of the Treasury will make one estimated payment to ASTD; U.S. Department of the Treasury will not be liable for any payments or adjustments beyond the single estimated amount. The parties to this agreement recognize that the United States has not waived its sovereign immunity for a suit by either American Samoa or the residents of American Samoa in connection with Recovery Rebates paid or payable to either American Samoa or its residents.

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8 Claims and Disputes

8.1 *Claims*

Any claim or dispute will be handled by the Tax Office staff of the ASTD. If the claim or dispute cannot be resolved by the Tax Office staff a meeting with the Tax Manager will be granted. If the Tax Manager is unable to resolve the issue, the taxpayer may file an action with the High Court of American Samoa to resolve the dispute. If an additional recovery rebate is claimed and determined to be owed, a second rebate check will be issued by ASTD.

8.2 *Best Effort*

The dates included in this Plan for distribution of Advance Payments and Final Payments are target dates, but given the accelerated schedule for the same, it is understood that there are various circumstances, unforeseen at the time of approval of this Plan that could affect the timing of payments. Accordingly, these dates represent the estimated dates for distribution of rebates based on best efforts as can be calculated in advance of this first time ever program. There shall be no liability or claim for interest against the ASTD for failure to meet the target dates established herein.

8.3 *No interest*

No individual shall be entitled to receive any kind of interest by reason of receiving a rebate as a result of a claim or otherwise.

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9 Functional Plan for Distribution of Recovery Rebates

The ASTD Tax Office has established an internal team of senior and information technology management officials that are responsible for carrying out the contents of this plan including the following activities:

9.1 Identification of Eligible Individuals

The ASTD Tax Office will systemically identify individuals eligible for a recovery rebate based on their 2007 tax return filed in 2008, using its information technology system. The process will include using the applicable tax rates, personal exemption, standard deduction amounts provided in the IRC. Social security and veterans benefit recipients will be included in this process. This systemic identification will be thoroughly tested and validated before initiating the calculation and distribution of advance recovery rebates.

9.2 Disbursement

The ASTD Disbursing Office will begin printing and distributing recovery rebate checks within ten (10) days following the date it receives funds (see section 7.1.a) from the U.S. Department of the Treasury.

The ASTD Disbursing Office will begin printing and distributing rebate checks within 10 days following the date it receives funds (see section 7.1.a) from the US Treasury.

Eligible individuals will claim their recovery rebate at the ASTD Disbursing Office and will be required to show some photo identification. Checks are not mailed to American Samoan residents since street addresses are not existent and PO boxes are unreliable.

Most residents of American Samoa who file a 2007 income tax return will be eligible for a recovery rebate. Eligible residents will receive their income tax refund first and afterwards can claim their recovery rebate check.

9.3 Disbursement Control

Criteria (e.g., last digit of the Social Security number, last name) will be developed to issue recovery rebate payment on an orderly schedule so to avoid having crowds at the ASTD Disbursing Office every weekday.

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10 Outreach Plan

The ASTD Tax Office has communicated with and will continue to communicate with the local media via radio, television, newspaper and its webpage to explain the rebate eligibility and process.

The ASTD Tax Office will issue public communications that outlines the criteria and schedule for refund and rebate check issuance.