Federal Income and Estate Tax Legislation
American Taxpayer Relief Act

Rx for Fiscal Cliff Acrophobia

The *American Taxpayer Relief Act* (the "Act") has been enacted by Congress and signed by the President.

The Act prevents large federal tax increases from taking effect January 1, 2013, under the so-called "fiscal cliff" provisions of prior law.

The Act also retains many favorable tax provisions of the Internal Revenue Code that were scheduled to expire.

However, the Act does increase income tax rates for certain high-income individuals, as advocated by the President in the 2012 election campaign to help reduce the federal deficit, although Congress increased the threshold taxable income amount for high-income families who will be subject to a tax rate increase from $250,000 to $450,000. It is expected that this income tax rate increase will not affect 98% of American families.

The federal estate tax exemption is retained at essentially the same level as under existing law in 2012 rather than reverting to the much lower exemption that existed prior to the tax law changes enacted in 2001. The favorable provision enacted in 2010 allowing use of both exemptions of a married couple by a surviving spouse (sometimes referred to as the "portability" provision) is now made a permanent part of the tax code.

The Act does not address spending cuts or the debt ceiling so it is expected that Congress and President Obama will continue the debate regarding this aspect of the "fiscal cliff."

Some of the key features of the Act include:

- *Income taxes.* The Act keeps the "Bush" tax rates enacted in 2001 for individuals with taxable income under $400,000 ($450,000 for married taxpayers, $425,000 for heads of household). However the Act provides that, beginning in 2013, taxable income of individuals above these levels will be subject to a 39.6% maximum rate. The maximum rate for all individual taxpayers for 2012 taxable income is 35%.

- *AMT patch.* The Act permanently provides for a "patch" the alternative minimum tax (AMT) so as to limit the application of the AMT to many middle income taxpayers.

- *Capital gains and dividends.* The Act raises the top rate for dividends and capital gains from 15% to 20% for taxpayers who would be subject to the new 39.6% bracket (those with taxable income of over $400,000 for a single taxpayer, and over $450,000 for married taxpayers filing jointly). (An additional 3.8% increase that will be implemented to pay for health care reform under prior law was not changed.)

- *Exemption, deduction limitations for high-income individuals.* The Act reinstates the personal exemption phase-out (PEP), and "Pease" limitation on itemized deductions, for taxpayers with adjusted gross income exceeding certain thresholds. This can indirectly result in an effective tax rate increase for taxpayers affected. It lowers the exemption and deductions allowed, which results in more taxable income being subject to actually stated progressive income tax rates. It will apply in 2013 and later years to taxpayers with adjusted gross income above $250,000 ($300,000 for married couples; $275,000 for heads of households).

- *Estate, Gift and Generation-Skipping Transfer taxes.* The Act prevents steep increases in estate, gift and generation-skipping transfer (GST) tax that were scheduled to apply for transfers made by decedents estates and lifetime gifts made after 2012. The Act now permanently keeps the federal estate, gift and GST exemption level at $5,000,000 (and provides for it to be "indexed" to increase for inflation). However, the Act also permanently places the top estate, gift and GST rate at 40% (an increase from the 35% rate that applied in 2011-12). If the Act had not been passed, the exemption level was scheduled to be reduced to about $1,000,000 and the maximum rate scheduled to increase to 55%. The Act also continues the "unification" of the exemption amount for estate and gift taxes. Under prior law, and predicted by many, the gift tax exemption amount was much lower than the estate tax exemption amount.

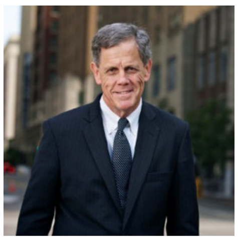
- *Individual extenders.* The Act would extend a number of individual income tax provisions, including the treatment of mortgage insurance premiums as qualified residence interest, deductions for State and local general sales taxes, and the above-the-line deduction for qualified tuition and related expenses.

- *Business tax provisions.* Certain favorable business tax features are extended by the Act, including depreciation provisions, including bonus depreciation, and the research and work opportunity tax credits. However, the Act does not extend certain payroll tax reductions. This will lead to lower take-home pay for many workers. Published estimates indicate a person earning $50,000 will have approximately $1,000 less in after tax take-home pay.

- *Other tax provisions affected.* The Act would extend unemployment insurance and many health and energy-related provisions.

This is a summary of the new law provided for general information purposes. It is not intended as and should not be relied upon as legal advice about the meaning and effect of the Act.

If you have questions about this new law or we can help you in any way respect to its features and effect please contact us at any time.



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