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Newsletter

Special report

Tax legislation gets us past the fiscal cliff – for now

The *American Taxpayer Relief Act of 2012* (ATRA) approved by Congress just after we plunged over the "fiscal cliff" restores and modifies several expired tax breaks, but doesn't address other issues. Here are the highlights of the new law's provisions for individual taxpayers.

- **Individual income taxes.** Only the wealthiest taxpayers face an income tax increase in 2013. A new individual tax rate of 39.6% will apply to single filers with income above $400,000 and joint filers with income above $450,000. Otherwise, the 2012 tax rate structure is permanently extended. However, beginning in 2013, a new 3.8% Medicare surtax authorized by the 2010 health care law also applies to certain high-income investors.

- **Capital gains and dividends.** Under prior law, the maximum tax rate for net long-term capital gain would have been boosted to 20%, while qualified dividends were scheduled to be taxed at ordinary income rates, beginning in 2013. The new law extends the favorable 15% tax rate for most taxpayers and extends the zero tax rate for those in the 10% and 15% brackets for ordinary income. However, for single filers with income above $400,000 and joint filers with income above $450,000, the maximum tax rate on long-term gains and qualified dividends increases to 20%.

- **Alternative minimum tax.** Retroactive to January 1, 2012, the new tax law permanently revamps the alternative minimum tax (AMT) to avoid increased exposure to this "stealth tax." Without the latest fix, an estimated 30 million more filers would have been required to pay the AMT for the 2012 tax year.

- **Payroll tax holiday.** The 2% reduction in payroll taxes ends. Employees will pay a 6.2% social security tax instead of the 2012 rate of 4.2%. Similarly, the social security tax rate for self-employed individuals reverts to 12.4% from 10.4%.

- **Itemized deductions and personal exemptions.** Restrictions are imposed on high-income taxpayers with income above a specified threshold. For single filers with adjusted gross income (AGI) above $250,000 and joint filers with income above $300,000, certain itemized deductions are reduced by 3% above the threshold, but the overall reduction can't exceed 80%. Personal exemptions are phased out above the same AGI thresholds without the 80% cap.

- **Tax extensions.** The new law generally extends, for varying time periods and with certain modifications, several favorable provisions that had expired. The list includes the child, dependent care, adoption, and earned income credits; tax relief from the "marriage penalty"; the American Opportunity Tax Credit for higher education expenses; the deduction for tuition and related fees; the optional state sales tax deduction; the enhanced deduction for student loan interest; the $250 deduction for an educator's classroom expenses; energy credits for qualified home improvements; a conservation donation tax benefit; and the tax-free IRA-to-charity contribution of assets up to $100,000 for taxpayers age 70½ and older.

- **Estate and gift taxes.** The new law avoids drastic changes for several provisions that had officially ended after 2012. Significantly, the estate tax exemption, which had been scheduled to drop to $1 million from $5 million (inflation-indexed to $5.12 million in 2012) remains at $5 million with inflation indexing. Portability of exemptions between spouses is preserved. The top estate tax rate, which had been scheduled to increase from 35% to 55% in 2013, is bumped up to 40%. The estate and gift tax changes are permanent.

- **Other provisions.** The new law also temporarily preserves several tax breaks for businesses – including the research credit, the enhanced work opportunity tax credit, a higher Section 179 deduction, 50% bonus depreciation and faster write-offs for qualified leasehold improvements – as well as extending unemployment benefits and higher payments to Medicare providers.

This latest tax law is not likely to be the final word on taxes in 2013. Congress is once again talking about a complete revision of the tax code. Also, the spending side of the "fiscal cliff" issue is yet to be dealt with. Stay tuned for ongoing changes that could affect your personal and business tax planning.

IRS Plans January 30 Tax Season Opening For 1040 Filers

Following the January tax law changes made by Congress under ATRA, as discussed above, the Internal Revenue Service announced that it plans to open the 2013 filing season and begin processing individual income tax returns on **January 30, 2013**. There is no announced date for the re-opening of Business e-file. In addition, the IRS has said that they will not be processing *any* returns – whether e-filed or filed on paper – until at least 1/30/13.

The IRS may begin accepting tax returns on that date or they may push back the date again, depending on their progress in updating forms and completing programming and testing of their processing systems. This will reflect the bulk of the late tax law changes enacted January 2. The announcement means that the vast majority of tax filers -- more than 120 million households -- should be able to start filing tax returns starting January 30.

The IRS estimates that remaining households will be able to start filing in late February or into March because of the need for more extensive form and processing systems changes. This group includes people claiming residential energy credits, depreciation of property or general business credits. Most of those in this group file more complex tax returns and typically file closer to the April 15 deadline or obtain an extension.

“We have worked hard to open tax season as soon as possible,” IRS Acting Commissioner Steven T. Miller said. “This date ensures we have the time we need to update and test our processing systems.”

The IRS will not process paper tax returns before the anticipated January 30 opening date. There is no advantage to filing on paper before the opening date, and taxpayers will receive their tax refunds much faster by using e-file with direct deposit.

“The best option for taxpayers is to file electronically,” Miller said.

The opening of the filing season follows passage by Congress of an extensive set of tax changes in ATRA on January 1, 2013, with many affecting tax returns for 2012. While the IRS worked to anticipate the late tax law changes as much as possible, the final law required that the IRS update forms and instructions as well as make critical processing system adjustments before it can begin accepting tax returns.

The IRS originally planned to open electronic filing this year on January 22; more than 80 percent of taxpayers filed electronically last year.

Who Can File Starting January 30?

The IRS anticipates that the vast majority of all taxpayers can file starting January 30, regardless of whether they file electronically or on paper. The IRS will be able to accept tax returns affected by the late Alternative Minimum Tax (AMT) patch as well as the three major “extender” provisions for people claiming the state and local sales tax deduction, higher education tuition and fees deduction and educator expenses deduction.

Who Cannot File Until Later?

There are several forms affected by the late legislation that require more extensive programming and testing of IRS systems. The IRS hopes to begin accepting tax returns including these tax forms between late February and into March; a specific date will be announced in the near future.

The key forms that require more extensive programming changes include Form 5695 (Residential Energy Credits), Form 4562 (Depreciation and Amortization) and Form 3800 (General Business Credit). A full listing of the forms that won’t be accepted until later is available on IRS.gov.

As part of this effort, the IRS will be working closely with the tax software industry and tax professional community to minimize delays and ensure as smooth a tax season as possible under the circumstances.

Updated information will be posted on IRS.gov or you can contact our office.

IRS Increases Standard Mileage Rates for Business, Moving, and Medical

The 2013 optional standard mileage rates used to calculate the deductible costs of operating an automobile for business, charitable, medical, or moving purposes have been issued. Beginning on January 1, 2013, the standard mileage rates for the use of a car (also vans, pickups or panel trucks) will be:

(1) 56.5 cents per mile, up from 55.5 cents per mile in 2012, for business miles driven;

(2) 24 cents per mile, up from 23 cents per mile in 2012, for medical or moving purposes; and

(3) 14 cents per mile for charitable purposes.

The standard mileage rate for business is based on an annual study of the fixed and variable costs of operating an automobile. The rate for medical and moving purposes is based on the variable costs. Taxpayers always have the option of calculating the actual costs of using their vehicle rather than using the standard mileage rates.

A taxpayer cannot use the business standard mileage rate for a vehicle after using any depreciation method under the Modified Accelerated Cost Recovery System (MACRS) or after claiming a Code Sec. 179 deduction for that vehicle. In addition, the business standard mileage rate cannot be used for more than four vehicles used simultaneously.

IRS Notice 2012-72 contains the standard mileage rates, the amount a taxpayer must use in calculating reductions to basis for depreciation taken under the business standard mileage rate, and the maximum standard automobile cost that a taxpayer may use in computing the allowance under a fixed and variable rate plan. For automobiles a taxpayer uses for business purposes, the portion of the business standard mileage rate treated as depreciation is 21 cents per mile for 2009, 23 cents per mile for 2010, 22 cents per mile for 2011, 23 cents per mile for 2012, and 23 cents per mile for 2013.

Owner of Health-Care Staffing Business Liable for Trust Fund Penalty

Recently, the Tax Court held that the taxpayer was a responsible person with respect to a health-care staffing business and was liable for failing to pay trust fund taxes. The court rejected the taxpayer's argument that payroll deposits should have been applied by the IRS entirely against trust-fund taxes rather than against the employer share of FICA. According to the court, a taxpayer cannot in practice instruct the IRS through EFTPS to apply employment-tax deposits to trust-fund taxes.

Are You Required to File a Tax Return for 2012?

The following are the amounts you can earn if you are a U.S. Citizens/Resident and not a dependent and still not be required to file a 2012 return. If you are-

Single and under 65 -$9,750

Single and 65 - 11,200

Married filing jointly, under 65 (both spouses) - 19,500

Married filing jointly, 65 or older (one spouse) - 20,650

Married filing jointly, 65 or older (both spouses) - 21,800

Married filing separately, any age - 3,800

Head of household, under 65 - 12,500

Head of household, 65 or older - 13,950

Surviving spouse with dependent child, under 65 - 15,700

Surviving spouse with dependent child, 65 or older - 16,850