American Taxpayer Relief Act of 2012 and Other 2012/2013 Tax Highlights[1]

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I. The 2013 Tax Landscape

A. Averting the Fiscal Cliff: The American Taxpayer Relief Act of 2012 (ATRA)

On January 1, 2013, the 112th Congress passed the American Taxpayer Relief Act of 2012 (the "Act"). In rare New Year's sessions, both the House and the Senate voted in favor of ATRA in order to avert the so-called fiscal cliff by approving much anticipated federal tax provisions, including provisions for the 2012 taxable year. Additionally, Congress delayed sequestration by postponing mandatory spending cuts for two months from January 1. On January 2, 2013, President Obama signed ATRA into law.

ATRA addresses the revenue side of the continuing fiscal cliff negotiations in several ways. The Act permanently extends the lower Bush-era income tax rates for all but the highest-income taxpayers. Tax rates for long-term capital gains and qualified dividends are permanently paired. Also, the Act establishes permanent relief for the alternative minimum tax (AMT) for 2012, as well as subsequent years, and permanently unifies the estate, gift, and generation-skipping transfer taxes. Portability of a spouse's unused exclusion amount at death is maintained.

Additionally, many business tax extenders, such as small business expensing under Internal Revenue Code (Code) section 179 and bonus depreciation expensing, are extended through the end of 2013. The Act also extends the enhanced education credit for five years.

When assessing the new tax landscape, as established by ATRA, it is important to note the different threshold levels for the various tax provisions. These newly established levels are not necessarily the same for each tax provision. However, the Act takes important steps to permanently index certain threshold levels for inflation.

Although ATRA resolves many of the uncertainties regarding filings for the 2012 taxable year and makes permanent numerous provisions that were merely extended by the 2010 Tax Relief Act (and therefore otherwise scheduled to sunset at the end of 2012), this legislation only marks the first step in continuing discussions regarding tax reform, entitlements, government spending, the national deficit and long-term debt.

Ordinary Income Tax Rates

Had Congress not enacted the American Taxpayer Relief Act of 2012, individual tax rates for all taxpayers would have increased in 2013. However, except for the highest-income taxpayers, ATRA makes permanent the lower Bush-era income tax rates for 2013 and beyond. Individual ordinary income tax rates are 10%, 15%, 25%, 28%, 33%, 35%, and 39.6% for 2013.

The highest income taxpayers—individual taxpayers with taxable income in 2013 above $400,000, $450,000 for married filing jointly, and $425,000 for heads of households—will be taxed at a 39.6% rate. These thresholds also apply for purposes of the new, higher 20% rate for long-term capital gains and qualified dividends. The new law directs that the tax brackets be adjusted for inflation.

Now, for 2013, the 35% tax bracket includes a relatively narrow range of taxpayers:

	2013 Taxable Income
Single Filers	\$398,351 - \$400,000
Heads of Households	\$398,351 - \$425,000
Married Filing Jointly and Surviving Spouses	\$398,351 - \$450,000
Married Filing Separately	\$199,176 - \$225,000

For 2013, the 39.6% tax bracket applies to:

	2013 Taxable Income
Single Filers	Over \$400,000
Heads of Households	Over \$425,000
Married Filing Jointly and Surviving Spouses	Over \$450,000
Married Filing Separately	Over \$225,000

Long-Term Capital Gains and Qualified Dividends

The Act raises the top rate for long-term capital gains and qualified dividends. Under prior law, capital gains and qualified dividends were taxed at 0% and 15%. Under ATRA, the tax rates for long-term capital gains and qualified dividends are 0%, 15%, and a top rate of 20%. The 20% tax rate applies to the extent that taxable income exceeds the thresholds set by ATRA for the 39.6% tax bracket, as outlined above.

Ordinary Income Tax Rates	Long-term Capital Gain and Qualified Dividend Tax Rates
10%, 15%	0%
25%, 28%, 33%, 35%	15%
39.6%	20%

Non-qualified dividends continue to be taxed at ordinary income tax rates.

Phaseout of the Personal Exemption and Itemized Deductions

In 2013, each taxpayer is entitled to a personal exemption of \$3,900. When determining taxable income, the personal exemption is subtracted from a taxpayer's adjusted gross income (AGI). AGI is further reduced by either a standard deduction or itemized deductions.

ATRA provides for a personal exemption phaseout ("PEP") as well as a phaseout of itemized deductions (the so-called Pease limitation) for high-income taxpayers. Whereas the personal exemption may be fully phased out, itemized deductions may only be phased out up to 80%. There is a single threshold for the limitations on both itemized deductions and personal exemptions, although it does not correspond with other thresholds relevant to high-income taxpayers, such as the 39.6% tax bracket or the Medicare contribution tax.

Applicable 2013 thresholds for AGI, at which the PEP and Pease limitation phaseout take effect:

	2013 Threshold (AGI)
Single Filers	$250,000
Heads of Households	$275,000
Married Filing Jointly and Surviving Spouses	$300,000
Married Filing Separately	$150,000

Above these thresholds, the phaseout is computed differently for PEP and itemized deductions—2% increments for personal exemptions and 3% increments for itemized deductions.

	Calculation	Extent to Which May Be Phased Out
Personal Exemption	2% of exemption phased out for every $2,500 of AGI above the threshold	May be fully phased out (for married filing jointly, phaseout complete at $422,500 AGI)
Itemized Deductions	3% of excess of AGI above the threshold ($.03 reduction for each dollar above the AGI threshold)	May only be phased out up to 80% of itemized deductions

Categories of itemized deductions subject to the phaseout include State and local income taxes, real property and certain personal property taxes, home mortgage interest, charitable contributions, and certain miscellaneous expenses (in excess of 2% of AGI). A few items, such as medical expenses, investment interest, and casualty, theft or wagering losses, are excluded from the phaseout.

IRAs and Charitable Distributions

ATRA extends the provisions allowing tax-free distributions from individual retirement accounts (IRAs) for qualified charitable purposes by individuals 70½ years of age or older. Qualified charitable distributions may not exceed $100,000 per taxpayer in a taxable year. A "qualified" charity is one described in Code section 170(b)(1)(A), which generally includes public charities. Although this provision had expired at the end of 2011, the extension is for two calendar years—for 2012 (subject to transitional rules) and 2013.

ATRA provides special transitional rules for 2012. First, taxpayers may elect to treat qualified charitable distributions made during January 2013 as made on December 31, 2012. Second, taxpayers may elect to treat distributions from an IRA to an individual made in December 2012 as a 2012 qualified charitable distribution to the extent that it is transferred in cash to a public charity before February 1, 2013.

The Alternative Minimum Tax

ATRA increases the specific amounts of alternative minimum taxable income (AMTI) exempt from the alternative minimum tax (AMT). The Acts also permanently indexes AMT threshold levels for inflation.

	2012 AMT Exemption	2013 AMT Exemption
Single Filers	$50,600	$51,900
Married Filing Jointly and Surviving Spouses	$78,750	$80,800
Married Filing Separately	$39,375	$40,400

Gift, Estate, and Generation-Skipping Transfer Taxes

Under the Act, the applicable exclusion and exemption amounts for gift, estate, and generation-skipping transfer (GST) tax purposes remain unified at $5 million, adjusted for inflation. Portability continues to be available for estate tax purposes. The Act imposes a 40% highest marginal transfer tax rate. To be noted, had Congress not addressed the marginal transfer tax rates, the highest marginal rate would have become 55%, with a 5% surtax on estates larger than $10 million.

	Exclusion/Exemption	2013 Exclusion/Exemption Adjusted for Inflation	Highest Marginal Tax Rate
Gift	$5,000,000 adjusted for inflation	$5,250,000	40%
Estate	$5,000,000 adjusted for inflation (with portability)	$5,250,000 (with portability)	40%
GST	$5,000,000 adjusted for inflation	$5,250,000	40%

Various other estate tax provisions are impacted by ATRA. In particular, the 5% surtax on estates larger than $10 million is repealed, the state death tax deduction is extended, and certain provisions affecting qualified conservation easements and the installment payment of estate taxes for closely held businesses are extended.

Prior to the enactment of ATRA, several GST tax provisions were scheduled to expire after 2012. ATRA makes permanent certain provisions that were scheduled to sunset, most importantly:

- the ability to take advantage of unused GST exemption in certain circumstances relating to "deemed allocations" and "retroactive allocations";
- the provisions allowing for "qualified severances" of trusts;
- certain clarifying language with respect to valuation of property for GST purposes; and
- certain relief provisions related to late GST elections and allocations.

Payroll Taxes

The new law does not impact the expiration of the payroll tax "holiday."

	Social Security Payroll Tax 2012	Social Security Payroll Tax 2013
Employees	4.2%	6.2%
Self-employed	10.4%	12.4%

Looking Ahead to the 113th Congress

The Congressional Budget Office (CBO) estimates that, compared to the pre-Bush era laws otherwise scheduled to take effect in 2013, ATRA will result in a decrease of revenue of approximately $280 billion in 2013, as well as a projected total decrease of approximately $3.6 trillion beginning in 2013 through 2022. As a result of changes in revenue and direct spending associated with the Act, the CBO projects that the deficit will increase in 2013 by approximately $330 billion, and beginning in 2013 through 2022, by approximately $4 trillion. These CBO estimates presuppose that Congress does not make additional changes to the ATRA provisions during these timeframes.

As noted, the American Taxpayer Relief Act of 2012 is merely the initial legislative step in a broader conversation involving taxes, tax reform, and government spending. In particular, ATRA only delayed sequestration (mandatory spending cuts) for two months from January 1, 2013. So, although the 112th Congress rang in the New Year while averting the fiscal cliff, these issues remain in the forefront during the early days of the 113th Congress.

B. The Medicare Taxes

Effective January 1, 2013, three new Medicare related taxes came into effect for high-income taxpayers–an additional 0.9% on the employee share of employment taxes for high level wage earners, an additional 0.9% self-employment tax on high level self-employment income earners, and a new 3.8% Medicare contribution tax on net investment income of high income level individuals and marginal tax bracket estates and trusts.

Additional Medicare Tax on Wages

For 2013, an additional hospital insurance (HI) tax of 0.9% on the wages of individuals in excess of a threshold amount came into effect. The additional HI tax brings the total employee and employer HI taxes to 3.8% (1.45% employee share, 1.45% employer share, and new 0.9% additional employee share). The threshold wage level for the additional HI tax is $250,000 for married persons filing a joint return, $125,000 for married persons filing separately, and $200,000 for all others. These thresholds are not inflation-adjusted.

The additional tax will be withheld by employers on employee wages in excess of $200,000, without regard to filing status or wages received by an employee's spouse. Employees will be required to pay amounts not withheld by their employer and employees whose additional tax is not covered by withholding may need to include the additional tax in their estimated tax payments to avoid estimated tax underpayment penalties.

Additional Self-Employment Medicare Tax

For the self-employed, the hospital insurance portion of the self-employment tax on self-employment income in excess of a threshold amount will be subject to an additional 0.9% tax. This brings the total hospital insurance portion of the self-employment tax to 3.8% (2.9% "base" and new 0.9% additional). The threshold is self-employment income in excess of $250,000 for a married couple filing jointly, $125,000 for a married couple filing separately, and $200,000 for all others, with no inflation adjustment.

New Unearned Income Medicare Contribution Tax

Beginning in 2013 the net investment income of high-income taxpayers is subject to an entirely new 3.8% Medicare contribution tax. The new 3.8% tax applies to "net investment income" of high-income individuals, estates and trusts. Whereas the thresholds for the additional taxes on wages and self-employment income are based on wage and self-employment income levels, the threshold for individuals is based on "modified" adjusted gross income (MAGI) and the threshold for estates and trusts is based on adjusted gross income.

The tax for individuals may be expressed as a formula as follows:

> Tax = 3.8% x (lesser of (i) net investment income and (ii) modified adjusted gross income less threshold amount)

Similarly, the tax for estates and trusts may be expressed as a formula as follows:

> Tax = 3.8% x (lesser of (i) undistributed net investment income and (ii) adjusted gross income less the dollar amount at which the highest tax bracket applies for the estate or trust)

There are two circumstances where the additional 3.8% tax will *not* apply. First, when an individual's modified adjusted gross income does not exceed the threshold amount or an estate or trust's adjusted gross income does not exceed the marginal tax bracket threshold. Second, when an individual taxpayer does not have "net investment income" or an estate or trust does not have "undistributed net investment income."

In the first circumstance, for individual taxpayers, modified adjusted gross income is adjusted gross income (which appears at the bottom of page 1 of Form 1040) plus, in the case of a U.S. citizen or resident living abroad, any foreign earned income and housing costs that are otherwise excluded from adjusted gross income. The threshold modified adjusted gross income amount is $250,000 for married persons filing jointly or a surviving spouse, $125,000 for married persons filing separately, and $200,000 for all others, with no inflation adjustment.

The question then becomes, what is included in the adjusted gross income portion of modified adjusted gross income? This is not a new tax concept, it is all of the items of income that are reported on page 1 of Form 1040 – wages, taxable interest, dividends, capital gain, traditional individual retirement account distributions (IRA), rent, etc., reduced by limited expenses such as moving expenses, but not by itemized deductions that are reported on Schedule A. Significantly, modified adjusted gross income does *not* include tax exempt interest, distributions from Roth IRAs, or the excluded gain from the sale of a principal residence ($500,000 for married taxpayers filing jointly and $250,000 for other taxpayers).

> *Planning pointer*: When considering whether to invest in taxable or tax-exempt obligations, whether to convert a traditional IRA to a Roth IRA, or whether to make contributions to a traditional IRA or a Roth IRA, take the new Medicare tax on unearned income into account.

> *Planning pointer*: In the sale of a principal residence, unless the gain exceeds the exclusion amount for the gain from the sale of a principal residence, the gain alone should not result in additional Medicare tax on unearned income.

For estates and trusts, the threshold is much lower. It is the level at which the marginal income tax rate applies to the estate or trust. This is $11,950 for 2013.

> *Planning pointer*: Because the threshold for estates and trusts is lower than for individuals, trusts and estates may deduct the distributable net income paid to beneficiaries and

beneficiaries pay tax on this income, in some circumstances income that would be subject to the 3.8% tax if accumulated by a trust will not be subject to the tax if distributed to a beneficiary. This may be a consideration in planning for distributions from a trust.

If modified adjusted gross income exceeds the threshold level that applies, the next step will be to determine “net investment income.” This is investment income reduced by deductions “properly allocable” to that income. What is clear from the language of the statute and the official explanations of the statute is that net investment income includes:

- Gross income from interest, dividends, annuities, royalties and rents (unless from an active trade or business);

- Net gain (to the extent taken into account in computing taxable income) from the disposition of property (other than certain active trade or business property); and

- Gross income from a passive trade or business or trading financial instruments or commodities.

Broadly speaking, if an item of income is subject to the additional 0.9% tax on wages or the 0.9% tax on self-employment income, it should not also be subject to the 3.8% tax on unearned income. Furthermore, income for this purpose does not include items such as interest on tax-exempt bonds, veterans’ benefits, and excluded gain from the sale of a principal residence. In addition, retirement plan distributions – distributions from qualified pension, profit sharing and stock bonus plans, qualified employee annuity plans, individual retirement accounts, Roth IRAs and government and tax -exempt organization deferred compensation plans - are not included in net investment income.

Medicare Contribution Tax Summary

	Modified Adjusted Gross Income	Net Investment Income
Taxable interest, dividends, annuities, royalties, rents (non-business)	Include	Include
Tax exempt interest	Exclude	Exclude
Capital gains generally	Include	Include
Capital gain on sale of principal residence excluded from computation of ordinary income tax	Exclude	Exclude
Distributions from traditional retirement accounts (IRA, 401k)	Include	Exclude
Distribution from Roth IRA and Roth 401k	Exclude	Exclude
Income from "passive" trade or business or trading financial instruments or commodities	Include	Include
Income from active trade or business	Include	Exclude

In summary, the "character" of income is important for purposes of determining whether the applicable threshold is exceeded and, if so, whether there is net investment income that will be subject to the new 3.8% tax. Consider the following examples:

> **Example:** Sam and Elizabeth file a joint federal income tax return. In 2013 they receive $50,000 of taxable interest income, $50,000 of tax-exempt interest income, and a distribution of $240,000 from their traditional IRA. They also sell their home, which they purchased for $500,000, for $1,000,000. Their MAGI is $290,000 ($50,000 taxable interest income plus $240,000 IRA distribution). The tax-exempt interest is not included in their MAGI and the $500,000 gain on their residence is excluded under the long-standing exclusion from taxable income of gain up to $500,000 on the sale of a principal residence for married persons filing jointly. Their net investment income is $50,000, and the excess of their MAGI over the threshold amount is $40,000 ($290,000 less $250,000). Their 2013 unearned Medicare contribution tax is $1,520 (3.8% x $40,000).

Example: If Sam and Elizabeth had previously converted their traditional IRA to a Roth IRA and received a $240,000 distribution from their Roth IRA in 2013 instead of from a traditional IRA, their MAGI will be only $50,000 (the taxable interest income) and they will owe no additional Medicare contribution tax because they will not reach the $250,000 threshold.

Example: If Sam and Elizabeth sold their vacation home instead of their primary residence, the gain on the sale of their vacation home will be included in their MAGI ($790,000) and in their net investment income ($550,000). Their 2013 unearned Medicare contribution tax in this circumstance is $20,250 (3.8% x ($790,000 MAGI - $250,000 threshold)).

In 2013, all three Medicare taxes are in effect, unaffected by the passage of the American Taxpayer Relief Act of 2012 (ATRA).

C. Estates and Trusts: The New 3.8% Medicare Tax on Net Investment Income

Effective January 1, 2013 estates and trusts are subject to the new 3.8% Medicare Contribution Tax on net investment income. The Internal Revenue Service has issued proposed regulations that provide helpful interim guidance regarding the implementation of the tax with respect to estates, trusts and beneficiaries until final regulations are promulgated.

Application to Estates and Trusts

Under Internal Revenue Code (Code) section 1411, the 3.8% Medicare Contribution Tax will be imposed on the lesser of (i) an estate or trust's undistributed net investment income or (ii) the excess (if any) of the estate or trust's adjusted gross income over the dollar amount at which the highest income tax bracket begins in the taxable year. In 2013, the highest inflation adjusted income tax bracket for an estate or trust is expected to begin at $11,950.

The threshold for application of the section 1411 tax on an estate or trust with undistributed net investment income is much lower than the applicable thresholds for individuals ($250,000 for a married couple filing jointly or a surviving spouse, $125,000 for a married taxpayer filing separately, and $200,000 for all others). Although the threshold for an estate or trust is relatively low, it is helpful to know that the full threshold amount generally will apply (without prorating) even in short tax years.

Net Investment Income and Undistributed Net Investment Income

Piecing the section 1411 puzzle together for estates and trusts requires computation of "net investment income" (NII) and "undistributed net investment income" (UNII), taking into account both the allocation of net investment income between an estate or trust and beneficiaries as well as the character of the income. In order to maintain consistency, the proposed regulations allocate net investment income between an estate or trust and beneficiaries and also categorize types of income for purposes of the section 1411 tax in a manner based upon that used for purposes of income taxation generally.

Recall that in the case of U.S. domestic estates and nongrantor trusts, in order to appropriately allocate the incidence of income tax between an estate or trust and its beneficiaries, the Code provides for a deduction of distributions to beneficiaries in computing taxable income at the estate or trust level. The amount deducted in computing the taxable income of the estate or trust is included in the computation of the taxable income of the beneficiaries. The character of the income earned at the estate or trust level is preserved at the beneficiary level for U.S. beneficiaries of domestic trusts.

Similarly, in the case of the section 1411 tax, "undistributed net investment income" (a term used solely for the determination of the section 1411 tax for estates and trusts) taxed to the trust is defined as net investment income reduced by (i) the share of net investment income included in the beneficiary distribution deduction of the estate or trust, and (ii) the charitable deduction for amounts paid or permanently set aside for charitable purposes. In effect, as is the case for purposes of the computation of the taxable income of an estate or trust for income tax purposes generally, an estate or trust is treated as a conduit of net investment income to the beneficiary and it is only that portion of net investment income that is trapped at the estate or trust level that is treated as undistributed net investment income and taxed to the estate or trust.

The starting point is the computation of net investment income, which is the same for individuals, estates and trusts. For purposes of the section 1411 tax, net investment income is the excess (if any) of–

- the sum of—
    - gross income from interest, dividends, annuities, royalties, and rents, other than such income derived in the ordinary course of a trade or business to which the tax does not apply,
    - other gross income from trades or businesses to which the tax applies, and
    - net gain (to the extent taken into account in computing taxable income) attributable to the disposition of property other than property held in a trade or business to which the tax does not apply, over
- allowable deductions properly allocable to such gross income or net gain.

This general definition of net investment income as further clarified in the proposed regulations provides for included income and, by omission, excluded income for purposes of the section 1411 tax. When applied to estates and trusts, the proposed regulations adopt the class system of categorization of income used in the computation of distributable net income (DNI) for income tax purposes to arrive at a trust's net investment income reduction where a beneficiary distribution is comprised of both included and excluded items of income. Thus, as discussed in greater detail below, in addition to keeping record of trust accounting income and distributable net income, beginning in 2013 trustees will be required to keep record of net investment income accumulated by a trust and net investment income distributed to a beneficiary, taking the character of the income into account.

Trusts Subject to the Section 1411 Tax

The section 1411 tax generally applies to "ordinary trusts." Specifically excluded are business trusts treated as business entities and certain trusts created under state statutes that are subject to special tax treatment under the Code, such as common trust funds taxed under Code Section 584. In addition, the section 1411 tax does not apply to trusts or funds that are exempt from income tax, even if they may be subject to the special tax on unrelated business income under Code section 511. Examples are 529 accounts and charitable remainder trusts (although special tax accounting discussed below will be required for charitable remainder trusts). In the case of a grantor trust treated as owned by the grantor or another person under Code sections 671 through 679 (a "grantor trust"), the section 1411 tax will not apply to the trust itself. Rather, the income of the trust will be treated as being the income of the grantor or other owner for purposes of the section 1411 tax.

Type of Trust	Section 1411 Taxation
Business trust treated as business entity	Not applicable
Common trust funds taxed under section 584	Not applicable
Designated settlement funds taxed under section 468B(b)(4)	Not applicable
Pooled income funds described in Section 642(c)(5)	Applies
Cemetery perpetual care funds described in Section 642(i)	Applies
Qualified funeral trust described in Section 685	Applies
Alaska Native settlement trust described in Section 685	Applies
Tax-exempt fund or trust (*e.g.*, charitable remainder trust, Archer MSA, health savings account, 529 qualified tuition program, Cloverdale education savings account)	Not applicable even if fund or trust subject to section 511 tax on unrelated business taxable income, but computation of NII portion of annuity or unitrust distribution from charitable remainder trust required
Trusts with unexpired interests for charitable purposes (*e.g.,* charitable lead trusts)	Not applicable
Grantor trusts under sections 671-679	Not applicable to trust; NII of grantor or other owner for section 1411 tax
Electing small business trust	Applies; special rules to determine section 1411 tax base
Foreign estate and foreign nongrantor trust	Should not apply if little or no connection to U.S.; potential application if U.S. beneficiary
Bankruptcy estate of individual debtor	Applies to debtor using deemed married filing separately status for threshold amount

Charitable Remainder Trusts

Although a charitable remainder trust is not subject to the section 1411 tax at the trust level, the proposed regulations provide computational rules to track annuity and unitrust distributions that constitute net investment income to the non-charitable beneficiary during the annuity or unitrust term.

Annuity and unitrust distributions from a charitable remainder trust to non-charitable beneficiaries are ordered for income tax purposes based on what is commonly referred to as a four-tier system (ordinary income, capital gains, tax-exempt income, and principal). However, in the interest of administrative convenience these ordering rules are not applied for purposes of the section 1411 tax. Rather, the proposed regulations provide that annuity and unitrust distributions are treated as including net investment income in an amount equal to the lesser of (i) the total amount of the distributions for the year, or (ii) the current and accumulated net investment income of the charitable remainder trust. Accumulated net investment income is the total amount of net investment income received by a charitable remainder trust for all taxable years after December 31, 2012 less the total amount of net investment income distributed for all prior taxable years that begin after December 31, 2012. Again, although a charitable remainder trust itself will not be subject to the section 1411 tax, additional recordkeeping will be required by the trustee for purposes of the tax reporting required with respect to the distributions to beneficiaries. If a trust has multiple annuity or unitrust beneficiaries, the net investment income will be apportioned among the beneficiaries based on the respective shares of the total annuity or unitrust they are paid by the trust in a taxable year.

Foreign Estates and Trusts

Foreign estates and foreign trusts with little or no connection to the United States are not subject to the section 1411 tax. However, the tax will apply to the extent that income of a foreign nongrantor trust is earned or accumulated for the benefit of, or distributed to, U.S. persons. For foreign grantor trusts, the section 1411 tax applies to the U.S. grantor or other U.S. owner.

An Example of the Computation

The complexity of the application of the section 1411 tax to estates and trusts is demonstrated by even the least complex example included in the proposed regulations. Following is one of the examples:

> In Year 1, Trust has dividend income of $15,000, interest income of $10,000, capital gain of $5,000, and $60,000 of taxable income relating to a distribution from an individual retirement account. Trust has no expenses. Trust distributes $10,000 of its current year trust accounting income to A, a beneficiary of Trust. For trust accounting purposes, $25,000 of the distribution from the individual retirement account is attributable to income. Trust allocates the remaining $35,000 of taxable income from the individual retirement account and the $5,000 of capital gain to principal, and therefore these amounts do not enter into the calculation of Trust's distributable net income for Year 1.
>
> Trust's distributable net income is $50,000 ($15,000 in dividends plus $10,000 in interest plus $25,000 of taxable income from an individual retirement account), from which the $10,000 distribution to A is paid. Trust's deduction is $10,000. The deduction reduces each class of income comprising distributable net income on a proportional basis. The $10,000 distribution equals 20 percent of distributable net income ($10,000 divided by $50,000). Therefore, the distribution consists of dividend income of $3,000, interest income of $2,000, and ordinary income attributable to the individual retirement account of $5,000. Because the $5,000 of capital gain allocated to principal for trust accounting purposes did not enter into distributable net income, no portion of that amount is included in the $10,000 distribution, nor does it qualify for the deduction.
>
> Trust's net investment income is $30,000 ($15,000 in dividends plus $10,000 in interest plus $5,000 in capital gain). Trust's $60,000 of taxable income attributable to the individual

retirement account is excluded income (within the meaning of the proposals) because it is excluded from net investment income. Trust's undistributed net investment income is $25,000, which is Trust's net investment income ($30,000) less the amount of dividend income ($3,000) and interest income ($2,000) distributed to A. The $25,000 of undistributed net investment income is comprised of the capital gain allocated to principal ($5,000), the remaining undistributed dividend income ($12,000), and the remaining undistributed interest income ($8,000).

Under the proposed regulations, A's net investment income includes dividend income of $3,000 and interest income of $2,000, but does not include the $5,000 of ordinary income attributable to the individual retirement account because it is excluded from net investment income.

	Trust Receipts	**Trust Accounting Income**	**Trust's DNI**	**A's Distribution and Trust's Distribution Deduction**	**Trust's Total NII**	**A's Share NII**	**Trust's UNII**
Dividends	$15,000	$15,000	$15,000	$3,000	$15,000	$3,000	$12,000
Taxable Interest	$10,000	$10,000	$10,000	$2,000	$10,000	$2,000	$8,000
Capital Gain	$5,000	--	--	--	$5,000	--	$5,000
IRA Distribution	$60,000	$25,000	$25,000	$5,000	--	--	--
Total	$90,000	$50,000	$50,000	$10,000	$30,000	$5,000	$25,000
Percentage of DNI				20%			

Effective Dates of the Proposed Regulations

Although the section 1411 tax will be in effect in 2013, the regulations generally are proposed to be effective for taxable years beginning *after* December 31, 2013. However, taxpayers may rely on the proposed regulations until final regulations are effective. Note that the Service "reserved" a number of areas of specific guidance and is seeking comments.

Looking Ahead to 2013 and Beyond

Trustees face new administrative challenges tracking and calculating the new 3.8% Medicare Contribution Tax as it applies to estates and trusts. The proposed regulations provide helpful guidance and further refinements are expected when final regulations are issued.

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A. Joint Committee on Taxation, Overview of the Federal Tax System as in Effect for 2013

B. Joint Committee on Taxation, Estimated Revenue Effects of the Revenue Provisions Contained in an Amendment in the Nature of a Substitute to H.R.8, the "American Taxpayer Relief Act of 2012," as passed by the Senate on January 1, 2013

C. Congressional Budget Office, Estimate of the Budgetary Effects of H.R. 8, the American Taxpayer Relief Act of 2012, as passed by the Senate on January 1, 2013

OVERVIEW OF THE FEDERAL TAX SYSTEM AS IN EFFECT FOR 2013

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION

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INTRODUCTION

This document,[1] prepared by the staff of the Joint Committee on Taxation ("Joint Committee Staff"), provides a summary of the present-law Federal tax system as in effect for 2013.

The current Federal tax system has four main elements: (1) an income tax on individuals and corporations (which consists of both a "regular" income tax and an alternative minimum tax); (2) payroll taxes on wages (and corresponding taxes on self-employment income) to finance certain social insurance programs; (3) estate, gift, and generation-skipping taxes, and (4) excise taxes on selected goods and services. This document provides a broad overview of each of these elements.[2]

A number of aspects of the Federal tax laws are subject to change over time. For example, some dollar amounts and income thresholds are indexed for inflation. The standard deduction, tax rate brackets, and the annual gift tax exclusion are examples of amounts that are indexed for inflation. In general, the Internal Revenue Service adjusts these numbers annually and publishes the inflation-adjusted amounts in effect for a tax year prior to the beginning of that year. Where applicable, this document generally includes dollar amounts in effect for 2013 and notes whether dollar amounts are indexed for inflation. A number of the inflation indexed 2013 values have not yet been published by the Internal Revenue Service. In these cases, the referenced figures were calculated by the Joint Committee Staff in accordance with the governing statute and published Consumer Price Index values.

In addition, a number of the provisions in the Federal tax laws have been enacted on a temporary basis or have parameters that vary by statute from year to year. For simplicity, this document describes the Federal tax laws in effect for 2013 and generally does not include references to provisions as they may be in effect for future years or to termination dates for expiring provisions.

[1] This document may be cited as follows: Joint Committee on Taxation, *Overview of the Federal Tax System as in Effect for 2013* (JCX-2-13R), January 8, 2013.

[2] If certain requirements are met, certain entities or organizations are exempt from Federal income tax. A description of such organizations is beyond the scope of this document.

I. SUMMARY OF PRESENT-LAW FEDERAL TAX SYSTEM

A. Individual Income Tax

In general

A United States citizen or resident alien generally is subject to the U.S. individual income tax on his or her worldwide taxable income.[3] Taxable income equals the taxpayer's total gross income less certain exclusions, exemptions, and deductions. Graduated tax rates are then applied to a taxpayer's taxable income to determine his or her individual income tax liability. A taxpayer may face additional liability if the alternative minimum tax applies. A taxpayer may reduce his or her income tax liability by any applicable tax credits.

Adjusted gross income

Under the Internal Revenue Code of 1986 (the "Code"), gross income means "income from whatever source derived" except for certain items specifically exempt or excluded by statute. Sources of income include compensation for services, interest, dividends, capital gains, rents, royalties, alimony and separate maintenance payments, annuities, income from life insurance and endowment contracts (other than certain death benefits), pensions, gross profits from a trade or business, income in respect of a decedent, and income from S corporations, partnerships,[4] trusts or estates.[5] Statutory exclusions from gross income include death benefits payable under a life insurance contract, interest on certain State and local bonds, employer-provided health insurance, employer-provided pension contributions, and certain other employer-provided benefits.

An individual's adjusted gross income ("AGI") is determined by subtracting certain "above-the-line" deductions from gross income. These deductions include trade or business expenses, capital losses, contributions to a qualified retirement plan by a self-employed individual, contributions to individual retirement arrangements ("IRAs"), certain moving expenses, certain education-related expenses, and alimony payments.

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[3] Foreign tax credits generally are available against U.S. income tax imposed on foreign source income to the extent of foreign income taxes paid on that income. A nonresident alien generally is subject to the U.S. individual income tax only on income with a sufficient nexus to the United States.

[4] In general, partnerships and S corporations are treated as pass-through entities for Federal income tax purposes. Thus, no Federal income tax is imposed at the entity level. Rather, income of such entities is passed through and taxed to the owners at the individual level. A business entity organized as a limited liability company ("LLC") under applicable State law generally is treated as a partnership for Federal income tax purposes.

[5] In general, estates and most trusts pay tax on income at the entity level, unless the income is distributed or required to be distributed under governing law or under the terms of the governing instrument. Such entities determine their tax liability using a special tax rate schedule and are subject to the alternative minimum tax. Certain trusts, however, do not pay Federal income tax at the trust level. For example, certain trusts that distribute all income currently to beneficiaries are treated as pass-through or conduit entities (similar to a partnership). Other trusts are treated as being owned by grantors in whole or in part for tax purposes; in such cases, the grantors are taxed on the income of the trust.

Taxable income

To determine taxable income, an individual reduces AGI by any personal exemption deductions and either the applicable standard deduction or his or her itemized deductions. Personal exemptions generally are allowed for the taxpayer, his or her spouse, and any dependents. For 2013, the amount deductible for each personal exemption is $3,900. This amount is indexed annually for inflation. Additionally, the personal exemption phase-out ("PEP") reduces a taxpayer's personal exemptions by two percent for each $2,500 ($1,250 for married filing separately), or fraction thereof, by which the taxpayer's AGI exceeds $250,000 (single), $275,000 (head-of-household), $300,000 (married filing jointly) and $150,000 (married filing separately).[6] These threshold amounts are indexed for inflation.

A taxpayer also may reduce AGI by the amount of the applicable standard deduction. The basic standard deduction varies depending upon a taxpayer's filing status. For 2013, the amount of the standard deduction is $6,100 for single individuals and married individuals filing separate returns, $8,950 for heads of households, and $12,200 for married individuals filing a joint return and surviving spouses. An additional standard deduction is allowed with respect to any individual who is elderly or blind.[7] The amounts of the basic standard deduction and the additional standard deductions are indexed annually for inflation.

In lieu of taking the applicable standard deductions, an individual may elect to itemize deductions. The deductions that may be itemized include State and local income taxes (or, in lieu of income**,** sales taxes), real property and certain personal property taxes, home mortgage interest, charitable contributions, certain investment interest, medical expenses (in excess of 10 percent of AGI), casualty and theft losses (in excess of 10 percent of AGI and in excess of $100 per loss), and certain miscellaneous expenses (in excess of two percent of AGI). Additionally, the total amount of itemized deductions allowed is reduced by $0.03 for each dollar of AGI in excess of $250,000 (single), $275,000 (head-of-household), $300,000 (married filing jointly) and $150,000 (married filing separately).[8] These threshold amounts are indexed for inflation.

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[6] A taxpayer thus has all personal exemptions completely phased out at incomes of $372, 501 (single), $397,501 (head-of-household), $422,501 (married filing jointly) and $211,251 (married filing separately).

[7] For 2013, the additional amount is $1,200 for married taxpayers (for each spouse meeting the applicable criterion) and surviving spouses. The additional amount for single individuals and heads of households is $1,500. If an individual is both blind and aged, the individual is entitled to two additional standard deductions, for a total additional amount (for 2013) of $2,400 or $3,000, as applicable.

[8] This rule is sometimes referred to as the "Pease limitation." A taxpayer may not lose more than 80 percent of his or her deductions as a result of this provision.

Table 1.–2013 Standard Deduction and Personal Exemption Values

Standard Deduction	
Married Filing Jointly	$12,200
Head of Household	$8,950
Single and Married Filing Separately	$6,100
Personal Exemptions	$3,900

Tax liability

In general

A taxpayer's net income tax liability is the greater of (1) regular individual income tax liability reduced by credits allowed against the regular tax, or (2) tentative minimum tax reduced by credits allowed against the minimum tax. The amount of income subject to tax is determined differently under the regular tax and the alternative minimum tax, and separate rate schedules apply. Lower rates apply for long-term capital gains; those rates apply for both the regular tax and the alternative minimum tax.

Regular tax liability

To determine regular tax liability, a taxpayer generally must apply the tax rate schedules (or the tax tables) to his or her regular taxable income. The rate schedules are broken into several ranges of income, known as income brackets, and the marginal tax rate increases as a taxpayer's income increases. Separate rate schedules apply based on an individual's filing status. For 2013, the regular individual income tax rate schedules are as follows:

Table 2.–Federal Individual Income Tax Rates for 2013

If taxable income is:	Then income tax equals:
Single Individuals	
Not over $8,925	10% of the taxable income
Over $8,925 but not over $36,250	$892.50 plus 15% of the excess over $8,925
Over $36,250 but not over $87,850	$4,991.25 plus 25% of the excess over $36,250
Over $87,850 but not over $183,250	$17,891.25 plus 28% of the excess over $87,850
Over $183,250 but not over $398,350	$44,603.25 plus 33% of the excess over $183,250
Over $398,350 but not over $400,000	$115,586.25 plus 35% of the excess over $398,350
Over $400,000	$116,163.75 plus 39.6% of the excess over $400,000
Heads of Households	
Not over $12,750	10% of the taxable income
Over $12,750 but not over $48,600	$1,275 plus 15% of the excess over $12,750
Over $48,600 but not over $125,450	$6,652.50 plus 25% of the excess over $48,600
Over $125,450 but not over $203,150	$25,865 plus 28% of the excess over $125,450
Over $203,150 but not over $398,350	$47,621 plus 33% of the excess over $203,150
Over $398,350 but not over $425,000	$112,037 plus 35% of the excess over $398,350
Over $425,000	$121,364.50 plus 39.6% of the excess over $425,000
Married Individuals Filing Joint Returns and Surviving Spouses	
Not over $17,850	10% of the taxable income
Over $17,850 but not over $72,500	$1,785 plus 15% of the excess over $17,850
Over $72,500 but not over $146,400	$9,982.50 plus 25% of the excess over $72,500
Over $146,400 but not over $223,050	$28,457.50 plus 28% of the excess over $146,400

Over $223,050 but not over $398,350	$49,919.50 plus 33% of the excess over $223,050
Over $398,350 but not over $450,000	$107,768.50 plus 35% of the excess over $398,350
Over $450,000	$125,846 plus 39.6% of the excess over $450,000
Married Individuals Filing Separate Returns	
Not over $8,925	10% of the taxable income
Over $8,925 but not over $36,250	$892.50 plus 15% of the excess over $8,925
Over $36,250 but not over $73,200	$4,991.25 plus 25% of the excess over $36,250
Over $73,200 but not over $111,525	$14,228.75 plus 28% of the excess over $73,200
Over $111,525 but not over $199,175	$24,959.75 plus 33% of the excess over $111,525
Over $199,175 but not over $225,000	$53,884.25 plus 35% of the excess over $199,175
Over $225,000	$62,923 plus 39.6% of the excess over $225,000

An individual's marginal tax rate may be reduced by the allowance of a deduction equal to a percentage of income from certain domestic manufacturing activities.[9]

<u>Alternative minimum tax liability</u>

An alternative minimum tax is imposed on an individual, estate, or trust in an amount by which the tentative minimum tax exceeds the regular income tax for the taxable year. For 2013, the tentative minimum tax is the sum of (1) 26 percent of so much of the taxable excess as does not exceed $179,500 ($89,750 in the case of a married individual filing a separate return) and (2) 28 percent of the remaining taxable excess. The taxable excess is so much of the alternative minimum taxable income ("AMTI") as exceeds the exemption amount. The breakpoint between the 26-percent and 28-percent bracket is indexed for inflation. The maximum tax rates on net capital gain and dividends used in computing the regular tax are used in computing the tentative minimum tax. AMTI is the taxpayer's taxable income increased by the taxpayer's tax preferences and adjusted by determining the tax treatment of certain items in a manner that negates the deferral of income resulting from the regular tax treatment of those items.

The exemption amounts for 2013 are: (1) $80,800 in the case of married individuals filing a joint return and surviving spouses; (2) $51,900 in the case of other unmarried individuals; (3) $40,400 in the case of married individuals filing separate returns; and

[9] This deduction is described in more detail below in the summary of the tax rules applicable to corporations.

(4) $23,100 in the case of an estate or trust. The exemption amounts are phased out by an amount equal to 25 percent of the amount by which the individual's AMTI exceeds (1) $153,900 in the case of married individuals filing a joint return and surviving spouses, (2) $115,400 in the case of other unmarried individuals, and (3) $76,950 in the case of married individuals filing separate returns or an estate or a trust. These amounts are indexed for inflation.

Among the preferences and adjustments applicable to the individual alternative minimum tax are accelerated depreciation on certain property used in a trade or business, circulation expenditures, research and experimental expenditures, certain expenses and allowances related to oil and gas and mining exploration and development, certain tax-exempt interest income, and a portion of the amount of gain excluded with respect to the sale or disposition of certain small business stock. In addition, personal exemptions, the standard deduction, and certain itemized deductions, such as State and local taxes and miscellaneous deductions, are not allowed to reduce AMTI.

Special capital gains and dividends rates

In general, gain or loss reflected in the value of an asset is not recognized for income tax purposes until a taxpayer disposes of the asset. On the sale or exchange of a capital asset, any gain generally is included in income. Any net capital gain of an individual is taxed at maximum rates lower than the rates applicable to ordinary income. Net capital gain is the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for the year. Gain or loss is treated as long-term if the asset is held for more than one year.

Capital losses generally are deductible in full against capital gains. In addition, individual taxpayers may deduct capital losses against up to $3,000 of ordinary income in each year. Any remaining unused capital losses may be carried forward indefinitely to another taxable year.

A maximum rate applies to capital gains and dividends. For 2013, the maximum rate of tax on the adjusted net capital gain of an individual is 20 percent on any amount of gain that otherwise would be taxed at a 39.6 rate. In addition, any adjusted net capital gain otherwise taxed at a 10- or 15-percent rate is taxed at a zero-percent rate. Adjusted net capital gain otherwise taxed at rates greater than 15-percent but less than 39.6 percent is taxed at a 15 percent rate. These rates apply for purposes of both the regular tax and the alternative minimum tax. Dividends are generally taxed at the same rate as capital gains.

Credits against tax

An individual may reduce his or her tax liability by any available tax credits. In some instances, a permissible credit is "refundable", *i.e.*, it may result in a refund in excess of any credits for withheld taxes or estimated tax payments available to the individual. Two major credits are the child tax credit and the earned income credit.

An individual may claim a tax credit for each qualifying child under the age of 17. The amount of the credit per child is $1,000.[10] The aggregate amount of child credits that may be claimed is phased out for individuals with income over certain threshold amounts. Specifically, the otherwise allowable child tax credit is reduced by $50 for each $1,000 (or fraction thereof) of modified adjusted gross income over $75,000 for single individuals or heads of households, $110,000 for married individuals filing joint returns, and $55,000 for married individuals filing separate returns. To the extent the child credit exceeds the taxpayer's tax liability, the taxpayer is eligible for a refundable credit[11] (the additional child tax credit) equal to 15 percent of earned income in excess of $3,000.[12]

A refundable earned income tax credit ("EITC") is available to low-income workers who satisfy certain requirements. The amount of the EITC varies depending upon the taxpayer's earned income and whether the taxpayer has one, two, more than two, or no qualifying children. In 2013, the maximum EITC is $6,044 for taxpayers with more than two qualifying children, $5,372 for taxpayers with two qualifying children, $3,250 for taxpayers with one qualifying child, and $487 for taxpayers with no qualifying children. The credit amount begins to phaseout at an income level of $17,530 ($7,970 for taxpayers with no qualifying children). The phaseout percentages are 15.98 for taxpayers with one qualifying child, 17.68 for two or more qualifying children, and 7.65 for no qualifying children.

Tax credits are also allowed for certain business expenditures, certain foreign income taxes paid or accrued, certain education expenditures, certain child care expenditures, and for certain elderly or disabled individuals. Credits allowed against the regular tax are allowed against the alternative minimum tax.

<u>Tax on net investment income</u>

For taxable years beginning after December 31, 2012, a tax is imposed on net investment income in the case of an individual, estate, or trust. In the case of an individual, the tax is 3.8 percent of the lesser of net investment income or the excess of modified adjusted gross income over the threshold amount.[13] The threshold amount is $250,000 in the case of a joint return or surviving spouse, $125,000 in the case of a married individual filing a separate return, and $200,000 in any other case.[14]

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[10] A child who is not a citizen, national, or resident of the United States cannot be a qualifying child.

[11] The refundable credit may not exceed the maximum credit per child of $1,000.

[12] Families with three or more children may determine the additional child tax credit using an alternative formula, if this results in a larger credit than determined under the earned income formula. Under the alternative formula, the additional child tax credit equals the amount by which the taxpayer's social security taxes exceed the taxpayer's earned income tax credit.

[13] The tax is subject to the individual estimated tax provisions. The tax is not deductible in computing any tax imposed by subtitle A of the Code (relating to income taxes).

[14] These amounts are not indexed for inflation.

Net investment income is the excess of (1) the sum of (a) gross income from interest, dividends, annuities, royalties, and rents, other than such income which is derived in the ordinary course of a trade or business that is not a passive activity with respect to the taxpayer or a trade or business of trading in financial instruments or commodities, and (b) net gain (to the extent taken into account in computing taxable income) attributable to the disposition of property other than property held in the active conduct of a trade or business that is not in the trade or business of trading in financial instruments or commodities, over (2) deductions properly allocable to such gross income or net gain.

For purposes of this tax, modified adjusted gross income is AGI increased by the amount excluded from income as foreign earned income under section 911(a)(1) (net of the deductions and exclusions disallowed with respect to the foreign earned income).

In the case of an estate or trust, the tax is 3.8 percent of the lesser of undistributed net investment income or the excess of adjusted gross income (as defined in section 67(e)) over the dollar amount at which the highest income tax bracket applicable to an estate or trust begins.[15]

[15] The tax does not apply to a nonresident alien or to a trust in which all the unexpired interests are devoted to charitable purposes. The tax also does not apply to a trust that is exempt from tax under section 501 or a charitable remainder trust exempt from tax under section 664.

B. Corporate Income Tax

Taxable income

Corporations organized under the laws of any of the 50 States (and the District of Columbia) generally are subject to the U.S. corporate income tax on their worldwide taxable income.[16]

The taxable income of a corporation generally is comprised of gross income less allowable deductions. Gross income generally is income derived from any source, including gross profit from the sale of goods and services to customers, rents, royalties, interest (other than interest from certain indebtedness issued by State and local governments), dividends, gains from the sale of business and investment assets, and other income.

Allowable deductions include ordinary and necessary business expenditures, such as salaries, wages, contributions to profit-sharing and pension plans and other employee benefit programs, repairs, bad debts, taxes (other than Federal income taxes), contributions to charitable organizations (subject to an income limitation), advertising, interest expense, certain losses, selling expenses, and other expenses. Expenditures that produce benefits in future taxable years to a taxpayer's business or income-producing activities (such as the purchase of plant and equipment) generally are capitalized and recovered over time through depreciation, amortization or depletion allowances. A net operating loss incurred in one taxable year may be carried back two years or carried forward 20 years. Deductions are also allowed for certain amounts despite the lack of a direct expenditure by the taxpayer. For example, a deduction is allowed for all or a portion of the amount of dividends received by a corporation from another corporation (provided certain ownership requirements are satisfied). Moreover, a deduction is allowed for a portion of the amount of income attributable to certain manufacturing activities.

The Code also specifies certain expenditures that may not be deducted, such as dividends paid to shareholders, expenses associated with earning tax-exempt income,[17] certain entertainment expenditures, certain executive compensation in excess of $1,000,000 per year, a portion of the interest on certain high-yield debt obligations that resemble equity, as well as fines, penalties, bribes, kickbacks and illegal payments.

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[16] Foreign tax credits generally are available against U.S. income tax imposed on foreign source income to the extent of foreign income taxes paid on that income. A foreign corporation generally is subject to the U.S. corporate income tax only on income with a sufficient nexus to the United States.

Under subchapter S of the Code, a qualified small business corporation may elect not to be subject to the corporate income tax. If an S corporation election is made, the income of the corporation will flow through to the shareholders and be taxable directly to the shareholders.

[17] For example, the carrying costs of tax-exempt State and local obligations and the premiums on certain life insurance policies are not deductible.

Tax liability

A corporation's regular income tax liability generally is determined by applying the following tax rate schedule to its taxable income.

Table 3.–Federal Corporate Income Tax Rates

If taxable income is:	Then the income tax rate is:
$0-$50,000...	15 percent of taxable income
$50,001-$75,000..	25 percent of taxable income
$75,001-$10,000,000.......................................	34 percent of taxable income
Over $10,000,000	35 percent of taxable income

The first two graduated rates described above are phased out for corporations with taxable income between $100,000 and $335,000. As a result, a corporation with taxable income between $335,000 and $10,000,000 effectively is subject to a flat tax rate of 34 percent. Also, the application of the 34-percent rate is gradually phased out for corporations with taxable income between $15,000,000 and $18,333,333, such that a corporation with taxable income of $18,333,333 or more effectively is subject to a flat rate of 35 percent.

In contrast to the treatment of capital gains in the individual income tax, no separate rate structure exists for corporate capital gains. Thus, the maximum rate of tax on the net capital gains of a corporation is 35 percent. A corporation may not deduct the amount of capital losses in excess of capital gains for any taxable year. Disallowed capital losses may be carried back three years or carried forward five years.

Corporations are taxed at lower rates on income from certain domestic production activities. This rate reduction is effected by the allowance of a deduction equal to a percentage of qualifying domestic production activities income. The deduction is equal to nine percent of the income from manufacturing, construction, and certain other activities specified in the Code.[18]

Like individuals, corporations may reduce their tax liability by any applicable tax credits. Tax credits applicable to businesses include credits for biofuels and renewable power, investment tax credits (applicable to investment in certain renewable energy property and the rehabilitation of certain real property), the research credit, the low-income housing credit

[18] With a nine percent deduction, a corporation is taxed at a rate of 35 percent on only 91 percent of qualifying income, resulting in an effective tax rate of 0.91 * 35, or 31.85 percent. A similar reduction applies to the graduated rates applicable to individuals with qualifying domestic production activities income.

(applicable to investment in certain low-income housing projects), the empowerment zone employment credit (applicable to wages paid to certain residents of, or employees in, empowerment zones), the work opportunity credit (applicable to wages paid to individuals from certain targeted groups), and the disabled access credit (applicable to expenditures by certain small businesses to make the businesses accessible to disabled individuals). Unused credits generally may be carried back one year and carried forward twenty years.

A foreign tax credit is available, subject to limitations, for certain foreign income taxes paid or accrued. Foreign income taxes limited in a tax year may be carried back one year or forward ten years.

Affiliated group

Domestic corporations that are affiliated through 80 percent or more corporate ownership may elect to file a consolidated return in lieu of filing separate returns. Corporations filing a consolidated return generally are treated as a single corporation; thus, the losses of one corporation can offset the income (and thus reduce the otherwise applicable tax) of other affiliated corporations.

Minimum tax

A corporation is subject to an alternative minimum tax that is payable, in addition to all other tax liabilities, to the extent that it exceeds the corporation's regular income tax liability. The tax is imposed at a flat rate of 20 percent on alternative minimum taxable income in excess of a $40,000 exemption amount.[19] Credits that are allowed to offset a corporation's regular tax liability generally are not allowed to offset its minimum tax liability. If a corporation pays the alternative minimum tax, the amount of the tax paid is allowed as a credit against the regular tax in future years.

Alternative minimum taxable income is the corporation's taxable income increased by the corporation's tax preferences and adjusted by determining the tax treatment of certain items in a manner that negates the deferral of income resulting from the regular tax treatment of those items. Among the preferences and adjustments applicable to the corporate alternative minimum tax are accelerated depreciation on certain property, certain expenses and allowances related to oil and gas and mining exploration and development, certain amortization expenses related to pollution control facilities, and certain tax-exempt interest income. In addition, corporate alternative minimum taxable income is increased by 75 percent of the amount by which the corporation's "adjusted current earnings" exceed its alternative minimum taxable income (determined without regard to this adjustment). Adjusted current earnings generally are determined with reference to the rules that apply in determining a corporation's earnings and profits.

[19] The exemption amount is phased out for corporations with income above certain threshold, and is completely phased out for corporations with alternative minimum taxable income of $310,000 or more.

Treatment of corporate distributions

The taxation of a corporation generally is separate and distinct from the taxation of its shareholders. A distribution by a corporation to one of its shareholders generally is taxable as a dividend to the shareholder to the extent of the corporation's current or accumulated earnings and profits.[20] Thus, the amount of a corporate dividend generally is taxed twice: once when the income is earned by the corporation and again when the dividend is distributed to the shareholder.[21] Conversely, amounts paid as interest to the debtholders of a corporation generally are subject to only one level of tax (at the recipient level) since the corporation generally is allowed a deduction for the amount of interest expense paid or accrued.

Amounts received by a shareholder in complete liquidation of a corporation generally are treated as full payment in exchange for the shareholder's stock. A liquidating corporation recognizes gain or loss on the distributed property as if such property were sold to the distributee for its fair market value. However, if a corporation liquidates a subsidiary corporation of which it has 80 percent or more control, no gain or loss generally is recognized by either the parent corporation or the subsidiary corporation.

Accumulated earnings and personal holding company taxes

Taxes at a rate of 20 percent (the top rate generally applicable to dividend income of individuals) may be imposed upon the accumulated earnings or personal holding company income of a corporation. The accumulated earnings tax may be imposed if a corporation retains earnings in excess of reasonable business needs. The personal holding company tax may be imposed upon the excessive passive income of a closely held corporation. The accumulated earnings tax and the personal holding company tax, when they apply, in effect impose the shareholder level tax in addition to the corporate level tax on accumulated earnings or undistributed personal holding company income.

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[20] A distribution in excess of the earnings and profits of a corporation generally is a tax-free return of capital to the shareholder to the extent of the shareholder's adjusted basis (generally, cost) in the stock of the corporation; such distribution is a capital gain if in excess of basis. A distribution of property other than cash generally is treated as a taxable sale of such property by the corporation and is taken into account by the shareholder at the property's fair market value. A distribution of stock of the corporation generally is not a taxable event to either the corporation or the shareholder.

[21] This double taxation is mitigated by a reduced tax rate generally applicable to dividend income of individuals.

C. Estate, Gift and Generation-Skipping Transfer Taxes

The United States generally imposes a gift tax on any transfer of property by gift made by a U.S. citizen or resident, whether made directly or indirectly and whether made in trust or otherwise. Nonresident aliens are subject to the gift tax with respect to transfers of tangible real or personal property where the property is located in the United States at the time of the gift. The gift tax is imposed on the donor and is based on the fair market value of the property transferred. Deductions are allowed for certain gifts to spouses and to charities. Annual gifts of $14,000 (for 2013) or less per donor and per donee generally are not subject to tax.

An estate tax also is imposed on the taxable estate of any person who was a citizen or resident of the United States at the time of death, and on certain property belonging to a nonresident of the United States that is located in the United States at the time of death. The estate tax is imposed on the estate of the decedent and generally is based on the fair market value of the property passing at death.[22] The taxable estate generally equals the worldwide gross estate less certain allowable deductions, including a marital deduction for certain bequests to the surviving spouse of the decedent and a deduction for certain bequests to charities.

The gift and estate taxes are unified such that a single graduated rate schedule and effective exemption amount apply to an individual's cumulative taxable gifts and bequests. The unified estate and gift tax rates begin at 18 percent on the first $10,000 in cumulative taxable transfers and reach 40 percent on cumulative taxable transfers over $1,000,000. A unified credit of $2,045,800 (for 2013) is available with respect to taxable transfers by gift or at death. This credit effectively exempts a total of $5.25 million[23] (for 2013) in cumulative taxable transfers from the gift tax or the estate tax. The unified credit thus generally also has the effect of rendering the marginal rates below 40 percent inapplicable. Unused exemption as of the death of a spouse generally is available for use by the surviving spouse; this feature of the law sometimes is referred to as exemption portability.

A separate transfer tax is imposed on generation-skipping transfers in addition to any estate or gift tax that is normally imposed on such transfers. This tax generally is imposed on transfers, either directly or through a trust or similar arrangement, to a beneficiary in more than

[22] In addition to interests in property owned by the decedent at the time of death, the Federal estate tax also is imposed on (1) life insurance that was either payable to the decedent's estate or in which the decedent had an incident of ownership at death, (2) property over which the decedent had a general power of appointment at death, (3) annuities purchased by the decedent or his employer that were payable to the decedent before death, (4) property held by the decedents as joint tenants, (5) property transferred by the decedent before death in which the decedent retained a life estate or over which the decedent had the power to designate who will possess or enjoy the property, (6) property revocably transferred by the decedent before death, and (7) certain transfers taking effect at the death of the decedent.

[23] The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, establishes an exemption amount of $5 million for 2010 and 2011 and indexes this amount for inflation for years after 2011. The American Taxpayer Relief Act of 2012 makes permanent the exemption provisions of the 2010 Act.

one generation below that of the transferor. For 2013, the generation-skipping transfer tax is imposed at a flat rate of 40 percent on generation-skipping transfers in excess of $5.25 million.

D. Social Insurance Taxes

In general

Social Security benefits and certain Medicare benefits are financed primarily by payroll taxes on covered wages. The Federal Insurance Contributions Act ("FICA") imposes tax on employers based on the amount of wages paid to an employee during the year. The tax imposed is composed of two parts: (1) the old age, survivors, and disability insurance ("OASDI") tax equal to 6.2 percent of covered wages up to the taxable wage base ($113,700 in 2013); and (2) the Medicare hospital insurance ("HI") tax amount equal to 1.45 percent of covered wages.[24] In addition to the tax on employers, each employee is subject to FICA taxes equal to the amount of tax imposed on the employer. The employee level tax generally must be withheld and remitted to the Federal government by the employer.

As a parallel to FICA taxes, the Self-Employment Contributions Act ("SECA") imposes taxes on the net income from self-employment of self-employed individuals. The rate of the OASDI portion of SECA taxes is equal to the combined employee and employer OASDI FICA tax rates and applies to self-employment income up to the FICA taxable wage base. Similarly, the rate of the HI portion is the same as the combined employer and employee HI rates and there is no cap on the amount of self-employment income to which the rate applies.[25]

In addition to FICA taxes, employers are subject to a Federal unemployment insurance payroll tax equal to 6 percent of the total wages of each employee (up to $7,000) on covered employment. Employers are eligible for a Federal credit equal to 5.4 percent for State unemployment taxes, yielding a 0.6 percent effective tax rate. Federal unemployment insurance payroll taxes are used to fund programs maintained by the States for the benefit of unemployed workers.

Additional hospital insurance tax on certain high-income individuals

For remuneration received in taxable years beginning after December 31, 2012, the employee portion of the HI tax is increased by an additional tax of 0.9 percent on wages received in excess of a specific threshold amount.[26] However, unlike the general 1.45 percent HI tax on wages, this additional tax is on the combined wages of the employee and the employee's spouse, in the case of a joint return. The threshold amount is $250,000 in the case of a joint return,

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[24] Since 1994, the HI payroll tax has not been subject to a wage cap.

[25] For purposes of computing net earnings from self-employment, taxpayers are permitted a deduction equal to the product of the taxpayer's earnings (determined without regard to this deduction) and one-half of the sum of the rates for OASDI (12.4 percent) and HI (2.9 percent), *i.e.*, 7.65 percent of net earnings. This deduction reflects the fact that the FICA rates apply to an employee's wages, which do not include FICA taxes paid by the employer, whereas a self-employed individual's net earnings are economically equivalent to an employee's wages plus the employer share of FICA taxes.

[26] Sec. 3101(b), as amended by the Patient Protection and Affordable Care Act ("PPACA"), Pub. L. No. 111-148.

$125,000 in the case of a married individual filing a separate return, and $200,000 in any other case (unmarried individual, head of household or surviving spouse).[27]

The same additional HI tax applies to the HI portion of SECA tax on self-employment income in excess of the threshold amount. Thus, an additional tax of 0.9 percent is imposed on every self-employed individual on self-employment income in excess of the threshold amount.[28]

[27] These threshold amounts are not indexed for inflation.

[28] Sec. 1402(b).

E. Major Excise Taxes

The Federal tax system imposes excise taxes on selected goods and services. Generally, excise taxes are taxes imposed on a per unit or ad valorem (*i.e.*, percentage of price) basis on the production, importation, or sale of a specific good or service. Among the goods and services subject to U.S. excise taxes are motor fuels, alcoholic beverages, tobacco products, firearms, air and ship transportation, certain environmentally hazardous products (*e.g.*, the tax on ozone depleting chemicals, and a tax on crude oil and certain petroleum products to fund the Oil Spill Liability Trust Fund), coal, certain telephone communications (*e.g*. local service), certain wagers, certain medical devices, indoor tanning services, and vehicles lacking in fuel efficiency.[29] Additionally, an annual fee is imposed on certain manufacturers and importers of branded prescription drugs pursuant to specified government programs. The largest excise taxes in terms of revenue (for fiscal year 2010) are those for gasoline motor fuel ($25.1 billion), domestic cigarettes ($14.9 billion), diesel motor fuel ($8.6 billion), and domestic air tickets ($7.6 billion).[30]

Revenues from certain Federal excise taxes are dedicated to trust funds (*e.g.*, the Highway Trust Fund) for designated expenditure programs, and revenues from other excise taxes (*e.g.*, alcoholic beverages) go to the General Fund for general purpose expenditures.

Table 4.–2013 Federal Excise Tax Rates for Selected Taxed Products or Services

Gasoline Motor Fuel	18.3 cents per gallon
Diesel Motor Fuel	24.3 cents per gallon
Domestic Cigarettes	$50.33 per thousand small cigarettes; $105.69 per thousand large cigarettes.
Domestic Air Tickets	7.5 percent of fare, plus $3.90 (2013) per domestic flight segment generally.

[29] See Joint Committee on Taxation, *Present Law and Background Information on Federal Excise Taxes* (JCX-1-11), January 2011, for a description the various Federal excise taxes.

[30] Internal Revenue Service, *Statistics of Income Bulletin*, Historical Table 20, "Federal Excise Taxes Reported to or Collected By the Internal Revenue Service, Alcohol and Tobacco Tax and Trade Bureau, and Customs Service, By Type of Excise Tax, Fiscal Years 1999-2010," http://www.irs.gov/pub/irs-soi/histab20.xls (2011).

JOINT COMMITTEE ON TAXATION
January 1, 2013
JCX-1-13

ESTIMATED REVENUE EFFECTS OF THE REVENUE PROVISIONS CONTAINED IN AN AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R.8, THE "AMERICAN TAXPAYER RELIEF ACT OF 2012," AS PASSED BY THE SENATE ON JANUARY 1, 2013

Fiscal Years 2013 - 2022

[Millions of Dollars]

Provision	Effective	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2013-17	2013-22
I. General Extensions													
A. Tax Relief													
1. Permanent Extension of Certain Tax Cuts Enacted in 2001													
a. Individual income tax rate relief:													
1. Retain 10% income tax bracket [1]............................	tyba 12/31/12	-30,723	-44,168	-44,841	-45,604	-45,986	-46,049	-46,360	-46,518	-46,412	-45,980	-211,322	-442,641
2. Retain the 25% and 28% income tax brackets...........	tyba 12/31/12	-12,731	-18,507	-19,549	-20,839	-21,972	-22,849	-23,447	-23,916	-24,198	-24,226	-93,598	-212,234
3. Retain the 33% income tax bracket, and retain 35% bracket only for taxable income under $400,000 ($450,000 joint) [2]..	tyba 12/31/12	-5,094	-7,595	-8,334	-9,332	-10,412	-11,466	-12,386	-13,352	-14,271	-15,235	-40,768	-107,477
4. Repeal the overall limitation on itemized deduction and the personal exemption phaseout for AGI under $250,000 ($300,000 joint) [3]....................................	tyba 12/31/12	-392	-802	-867	-955	-1,043	-1,131	-1,212	-1,292	-1,371	-1,449	-4,058	-10,514
b. Retain the child tax credit at $1,000; refundable up to greater of 15% of earned income in excess of $10,000 (indexed from 2001) or the taxpayer's social security tax liability to the extent that it exceeds the taxpayer's earned income credit; allow credit against the AMT; repeal AMT offset of refundable credits [1]..	tyba 12/31/12	-4,117	-35,825	-36,785	-37,749	-38,674	-39,310	-39,869	-40,262	-40,714	-41,189	-153,151	-354,493
c. Marriage penalty relief:													
1. Standard deduction and 15% rate bracket set at 2 times single for married filing jointly [1].................	tyba 12/31/12	-4,279	-6,168	-6,134	-6,067	-5,926	-5,689	-5,508	-5,353	-5,298	-5,182	-28,575	-55,604
2. EIC modification and simplification - increase in joint returns beginning and ending income level for phaseout by $3,000 indexed after 2008; simplify definition of earned income; use AGI instead of modified AGI; simplify definition of qualifying child and tie-breaker rules; and allow math error procedure with Federal Case registry data beginning in 2004 [1]...	tyba 12/31/12	-31	-3,126	-3,100	-3,115	-3,086	-3,120	-3,193	-3,284	-3,407	-3,565	-12,458	-29,026

Provision	Effective	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2013-17	2013-22
d. Education Tax Relief:													
1. Coverdell Education Savings Accounts ("ESAs") - increase the annual contribution limit to $2,000; allow ESA contributions for special needs beneficiaries above the age of 18; allow corporations and other entities to contribute to ESAs; allow contributions until April 15 of the following year; allow a taxpayer to exclude ESA distributions from gross income and claim the HOPE or Lifetime Learning credits as long as they are not used for the same expenses; repeal excise tax on contributions made to ESA when contribution made by anyone on behalf of same beneficiary to QTP; modify phaseout range for married taxpayers; allow tax-free expenditures for elementary and secondary school expenses; expand the definition of qualified expenses to include certain computers and related items...	tyba 12/31/12	-9	-14	-16	-19	-23	-28	-33	-38	-43	-48	-81	-271
2. Employer provided educational assistance - extend the exclusion for undergraduate courses and graduate level courses [4].......................	cba 12/31/12	-230	-1,153	-1,176	-1,200	-1,224	-1,248	-1,273	-1,299	-1,325	-1,351	-4,982	-11,477
3. Student loan interest deduction - eliminate the 60-month rule and the disallowance for voluntary payments; increase phaseout ranges to $50,000-$65,000 single/ $100,000-$130,000 joint, indexed for inflation..	ipa 12/31/12	-89	-898	-1,005	-1,024	-1,067	-1,025	-1,118	-1,098	-1,174	-1,180	-4,083	-9,676
4. Eliminate the tax on awards under the National Health Service Corps Scholarship program and F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program...........	tyba 12/31/12	-127	-132	-136	-141	-147	-152	-158	-163	-169	-176	-683	-1,501
5. Increase arbitrage rebate exception for governmental bonds used to finance qualified school construction from $10 million to $15 million..	bia 12/31/12	[5]	-1	-2	-4	-6	-8	-10	-12	-14	-16	-13	-72
6. Issuance of tax-exempt private activity bonds for qualified education facilities with annual State volume caps the greater of $10 per resident or $5 million..	bia 12/31/12	[5]	-2	-5	-8	-12	-16	-21	-25	-29	-34	-27	-152
e. Dependent care tax credit - increase the credit rate to 35%, increase the eligible expenses to $3,000 for one child and $6,000 for two or more children (not indexed), and increase the start of the phase-out to $15,000 of AGI [1]..	tyba 12/31/12	-62	-246	-233	-222	-208	-190	-175	-164	-154	-139	-970	-1,791

Provision	Effective	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2013-17	2013-22
f. Adoption credit - increase the expense limit and the exclusion to $10,000 for both non-special needs and special needs adoptions, make the credit independent of expenses for special needs adoptions, extend the credit and the exclusion, increase the phase-out start point to $150,000, index for inflation the expenses limit and the phase-out start point for both the credit and the exclusion, and allow the credit to apply to the AMT [1]..	tyba 12/31/12	-154	-520	-539	-555	-577	-606	-630	-643	-664	-693	-2,344	-5,580
g. Employer-provided child care credit of 25% for childcare expenditures and 10% for child care resource..	tyba 12/31/12	-14	-17	-19	-21	-22	-22	-23	-23	-24	-24	-93	-209
h. Allow electing Alaska Native Settlement Trusts to tax income to the Trust not the beneficiaries...................	tyba 12/31/12	-2	-5	-5	-4	-5	-5	-5	-5	-5	-5	-21	-46
i. Permanently extend current estate and gift tax policy ($5 million indexed and unified exemption amount with portability) but with a top tax rate of 40%......................	dda & gma 12/31/12	-334	-27,482	-31,915	-34,815	-37,964	-40,946	-44,033	-47,187	-50,406	-53,986	-132,510	-369,068
2. Permanent Extension of Certain Tax Cuts Enacted in 2003													
a. Tax capital gains with a 0%/15%/20% rate structure......	tyba 12/31/12	-700	-4,904	-6,282	-6,480	-6,584	-6,532	-6,558	-6,748	-6,914	-7,160	-24,951	-58,863
b. Tax dividends with a 0%/15%/20% rate structure..........	tyba 12/31/12	-6,038	-18,150	-20,195	-21,705	-23,961	-25,876	-27,165	-28,211	-29,380	-30,375	-90,050	-231,057
3. Extension of Certain Tax Cuts Enacted in 2009													
a. Extension of American opportunity tax credit (sunset 12/31/17) [1]..	tyba 12/31/12	-2,625	-13,135	-13,238	-13,498	-13,717	-11,067	---	---	---	---	-56,213	-67,280
b. Reduce the earnings threshold for the refundable portion of the child tax credit to $3,000 (sunset 12/31/17) [1]..	tyba 12/31/12	-7	-10,680	-10,451	-10,166	-9,696	-9,518	---	---	---	---	-41,000	-50,518
c. Extend the earned income tax credit ("EITC") for larger families (sunset 12/31/17) [1]...	tyba 12/31/12	-18	-1,773	-1,736	-1,688	-1,629	-1,624	---	---	---	---	-6,844	-8,467
d. EIC modification and simplification - increase in joint returns beginning and ending income level for phaseout by $5,000 indexed after 2008 (sunset 12/31/17) [1]..	tyba 12/31/12	-16	-1,639	-1,612	-1,596	-1,564	-1,552	---	---	---	---	-6,427	-7,979
e. Refunds disregarded in the administration of Federal programs and federally assisted programs [1].................	ara 12/31/12	- *Estimate to be Provided by the Congressional Budget Office* -											
4. Permanent Alternative Minimum Tax Relief - increase the AMT exemption amount to $50,600 ($78,750 joint) in 2012 and index the AMT exemption amount, exemption phaseout threshold, and income bracket beginning in 2013...	tyba 12/31/11	-138,750	-105,375	-119,550	-136,395	-155,947	-179,805	-204,990	-229,846	-257,451	-287,491	-656,016	-1,815,600
Total of General Extensions…………………………………………………………………		**-206,542**	**-302,317**	**-327,725**	**-353,202**	**-381,452**	**-409,834**	**-418,167**	**-449,439**	**-483,423**	**-519,504**	**-1,571,238**	**-3,851,596**
II. Individual Tax Extenders													
1. Above-the-line deduction of up to $250 for teacher classroom expenses (sunset 12/31/13)..................................	tyba 12/31/11	-242	-164	---	---	---	---	---	---	---	---	-406	-406

Provision	Effective	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2013-17	2013-22
2. Discharge of indebtedness on principal residence excluded from gross income of individuals (sunset 12/31/13)............	doioa 12/31/12	-199	-1,128	---	---	---	---	---	---	---	---	-1,327	-1,327
3. Parity for exclusion for employer-provided mass transit and parking benefits (sunset 12/31/13) [6]..........................	ma 12/31/11	-190	-30	---	---	---	---	---	---	---	---	-220	-220
4. Premiums for mortgage insurance deductible as interest that is qualified residence interest (sunset 12/31/13)............	apoaa 12/31/11	-791	-506	---	---	---	---	---	---	---	---	-1,297	-1,297
5. Deduction for State and local general sales taxes (sunset 12/31/13)..	tyba 12/31/11	-2,859	-2,404	-275	---	---	---	---	---	---	---	-5,538	-5,538
6. Contributions of capital gain real property made for qualified conservation purposes (sunset 12/31/13)..............	cmi tyba 12/31/11	-82	-50	-11	-2	-7	-20	-26	-21	-19	-17	-152	-254
7. Deduction for qualified tuition and related expenses (sunset 12/31/13)..	tyba 12/31/11	-944	-762	---	---	---	---	---	---	---	---	-1,706	-1,706
8. Tax-free distributions from IRAs to certain public charities for individuals age 70-1/2 or older, not to exceed $100,000 per taxpayer per year; special transition rules for certain distributions made in December 2012 and January 2013 (sunset 12/31/13)..	dmi tyba 12/31/11	-594	-283	-41	-43	-46	-49	-51	-55	-58	-61	-1,006	-1,280
9. Modify and make permanent the authority for disclosure of prisoner return information to certain prison officials.......	DOE	[7]	1	1	1	1	1	1	1	1	1	5	12
Total of Individual Tax Provisions……………………………………………………		**-5,901**	**-5,326**	**-326**	**-44**	**-52**	**-68**	**-76**	**-75**	**-76**	**-77**	**-11,647**	**-12,016**
III. Business Tax Extenders													
1. Extend and modify tax credit for research and experimentation expenses (sunset 12/31/13)........................	apoia 12/31/11	-6,232	-1,989	-1,077	-947	-834	-736	-670	-638	-617	-584	-11,079	-14,324
2. Create a LIHC rate floor of 9 percent (sunset 12/31/13).......	amb 1/1/14	---	-1	-1	-1	-1	-1	-1	-1	-1	-1	-3	-8
3. LIHTC treatment of military housing allowances (sunset 12/31/13)..	da 12/31/11	-2	-3	-4	-4	-4	-4	-4	-4	-4	-4	-17	-37
4. Indian employment tax credit (sunset 12/31/13)..................	tyba 12/31/11	-69	-38	-11	-1	---	---	---	---	---	---	-119	-119
5. New markets tax credit ($3.5 billion allocation in 2012 and 2013) (sunset 12/31/13)..	cyba 12/31/11	-5	-27	-90	-171	-221	-252	-279	-288	-267	-194	-514	-1,794
6. 50% tax credit for certain expenditures for maintaining railroad tracks (sunset 12/31/13)..	apoia 12/31/11	-232	-99	[5]	---	---	---	---	---	---	---	-331	-331
7. Mine rescue team training credit (sunset 12/31/13).............	tyba 12/31/11	-1	-2	-1	[5]	[5]	[5]	----	---	---	---	-5	-5
8. Employer wage credit for activated military reservists (sunset 12/31/13)..	pma 12/31/11	-3	-3	-1	[5]	---	---	---	---	---	---	-7	-7
9. Work opportunity tax credit:													
a. Work opportunity tax credit (sunset 12/31/13)................	wpoifibwa 12/31/11	-894	-533	-199	-84	-45	-17	-2	---	---	---	-1,755	-1,773
b. Work opportunity tax credit for qualified veterans (sunset 12/31/13)...	wpoifibwa 12/31/12	-53	-40	-20	-6	-4	-2	[5]	---	---	---	-123	-125
10. Qualified zone academy bonds ($400 million allocation in 2012 and in 2013) (sunset 12/31/13)..................................	oia 12/31/11	-3	-8	-16	-24	-29	-31	-31	-31	-31	-31	-80	-235
11. 15-year straight-line cost recovery for qualified leasehold, restaurant, and retail improvements (sunset 12/31/13)..........	ppisa 12/31/11	-277	-371	-416	-411	-401	-388	-383	-378	-361	-331	-1,876	-3,717
12. 7-year recovery period for certain motorsports racing track facilities (sunset 12/31/13)..	ppisa 12/31/11	-46	-24	-14	-7	-4	-5	-3	5	10	10	-95	-78

Provision	Effective	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2013-17	2013-22
13. Accelerated depreciation for business property on Indian reservations (sunset 12/31/13)..	ppisa 12/31/11	-310	-273	-77	50	111	138	102	46	1	-11	-498	-222
14. Enhanced charitable deduction for contributions of food inventory (sunset 12/31/13)...	cma 12/31/11	-218	-96	---	---	---	---	---	---	---	---	-314	-314
15. Increase in section 179 expensing amounts and threshold limits $500,000/$2,000,000 (sunset 12/31/13) [8]...............	tyba 12/31/11	-8,088	-4,042	3,129	2,022	1,526	1,191	777	500	350	283	-5,453	-2,352
16. Election to expense mine safety equipment (sunset 12/31/13)..	ppisa 12/31/11	-27	1	7	5	4	4	3	2	1	---	-9	---
17. Special expensing rules for certain film and television productions (sunset 12/31/13)..	qfatpca 12/31/11	-266	-164	45	38	32	24	16	11	9	7	-315	-248
18. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico (sunset 12/31/13)..	tyba 12/31/11	-236	-122	---	---	---	---	---	---	---	---	-358	-358
19. Modify tax treatment of certain payments under existing arrangements to controlling exempt organizations (sunset 12/31/13)..	proaa 12/31/11	-35	-5	---	---	---	---	---	---	---	---	-40	-40
20. Treatment of certain dividends of RICs (sunset 12/31/13)..	[9]	-124	-27	---	---	---	---	---	---	---	---	-151	-151
21. Extend the treatment of RICs as "qualified investment entities" under section 897 (FIRPTA) (sunset 12/31/13).......	1/1/12	-48	-12	---	---	---	---	---	---	---	---	-60	-60
22. Exception under subpart F for active financing income (sunset 12/31/13)..	tyba 12/31/11	-9,399	-1,826	---	---	---	---	---	---	---	---	-11,225	-11,225
23. Look-through treatment of payments between related CFCs under foreign personal holding company income rules (sunset 12/31/13)..	tyba 2011	-1,199	-304	---	---	---	---	---	---	---	---	-1,503	-1,503
24. Special rules applicable to qualified small business stock (sunset 12/31/13)..	saa 12/31/11	6	7	---	---	-15	-212	-694	-27	-10	-9	-3	-954
25. Basis adjustment to stock of S corporations making charitable contributions of property (sunset 12/31/13)..........	cmi tyba 12/31/11	-93	-51	-10	-11	-10	-10	-10	-10	-10	-10	-175	-225
26. Reduction in recognition period for S corporation built-in gains tax (sunset 12/31/13).....................................	tyba 12/31/11	-180	-76	1	1	1	1	1	1	1	---	-254	-250
27. Empowerment zone tax incentives (sunset 12/31/13)...........	tyba 12/31/11	-360	-44	-23	-11	-5	-1	-1	-2	-2	-2	-442	-450
28. New York Liberty Zone tax-exempt bond financing (sunset 12/31/13)..	bia 12/31/11	- *No Revenue Effect* -											
29. Temporary increase in limit on cover over of rum excise tax revenues (from $10.50 to $13.25 per proof gallon) to Puerto Rico and the Virgin Islands (sunset 12/31/13) [1] [10]..	abiUSa 12/31/11	-199	-23	---	---	---	---	---	---	---	---	-222	-222
30. Extension and modification of economic development credit for American Samoa (sunset 12/31/13)......................	tyba 12/31/11	-38	-24	---	---	---	---	---	---	---	---	-62	-62
31. Extension and modification of bonus depreciation:													
a. 50% bonus depreciation (sunset 12/31/13).....................	[11]	-34,439	-15,838	15,018	10,101	7,515	5,707	3,446	1,970	1,111	737	-17,644	-4,673
b. Election to accelerate AMT credit in lieu of bonus depreciation (sunset 12/31/13).......................................	[11]	-162	-139	-26	4	6	7	7	7	7	7	-317	-283
Total of Business Tax Extenders..		**-63,232**	**-26,196**	**16,214**	**10,543**	**7,622**	**5,413**	**2,274**	**1,163**	**187**	**-133**	**-55,049**	**-46,145**

Provision	Effective	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2013-17	2013-22
IV. Energy Tax Extenders													
1. Extension and modification of section 25C nonbusiness energy property (sunset 12/31/13)..	ppisa 12/31/11	-1,456	-991	---	---	---	---	---	---	---	---	-2,446	-2,446
2. Alternative fuel vehicle refueling property (non- hydrogen refueling property) (sunset 12/31/13)...................................	tyba 12/31/11	-34	-9	-1	[5]	[7]	[7]	[7]	[7]	[7]	[7]	-44	-44
3. Expand section 30D credit for qualified plug-in electric drive motor vehicles to include electric motorcycles (sunset 12/31/13)..	vaa 12/31/11	-1	-3	-3	---	---	---	---	---	---	---	-7	-7
4. Credit for production of cellulosic biofuel with a maximum credit of $1.01 per gallon and inclusion of fuel from algae (sunset 12/31/13)...	fsoua DOE [12]	-43	-16	---	---	---	---	---	---	---	---	-59	-59
5. Extension of credits for biodiesel and renewable diesel:													
a. Income tax credits for biodiesel fuel, biodiesel used to produce a qualified mixture, and small agri-biodiesel producers (sunset 12/31/13)......................	fsoua 12/31/11	-1,881	-300	---	---	---	---	---	---	---	---	-2,181	-2,181
b. Income tax credits for renewable diesel fuel and renewable diesel used to produce a qualified mixture (sunset 12/31/13)...	fsoua 12/31/11	*Estimate Included In Item 5.a.*											
c. Excise tax credits and outlay payments for biodiesel fuel mixtures (sunset 12/31/13)........................	fsoua 12/31/11	*Estimate Included In Item 5.a.*											
d. Excise tax credits and outlay payments for renewable diesel fuel mixtures (sunset 12/31/13)............	fsoua 12/31/11	*Estimate Included In Item 5.a.*											
6. Credit for production of Indian coal (sunset 12/31/13).........	cpa 12/31/12	-1	[5]	[5]	[5]	[5]	[5]	[5]	---	---	---	-1	-1
7. Extension and modification of credits for renewable energy:													
a. Modify expiration date for renewable electricity production credit to construction beginning before December 31, 2013..	ppisa 12/31/12	-116	-445	-882	-1,230	-1,386	-1,499	-1,568	-1,642	-1,686	-1,729	-4,060	-12,184
b. Exclude segregated paper which is commonly recycled from the definition of municipal solid waste for purposes of the section 45 credit for renewable electricity production...	DOE	6	7	8	8	8	9	9	10	10	---	37	75
c. Election to claim the energy credit in lieu of the electricity production credit (sunset 12/31/13)................	ppisa 12/31/12	---	-100	-130	-54	-10	7	28	40	42	43	-294	-135
8. Credit for construction of energy-efficient new homes (sunset 12/31/13)..	haa 12/31/11	-74	-27	-14	-12	-11	-9	-6	-1	---	---	-138	-154
9. Credit for energy-efficient appliances (sunset 12/31/13).......	apa 12/31/11	-155	-82	-65	-65	-65	-65	-65	-54	-28	-6	-432	-650
10. Special depreciation allowance for cellulosic biofuel plant property and inclusion of algae-based fuel plant property (sunset 12/31/13)..	ppisa 12/31/12 [13]	-1	-2	[7]	[7]	[7]	[7]	[7]	[7]	[7]	[7]	-2	[5]
11. Special rule for sales or dispositions to implement Federal Energy Regulatory Commission (“FERC”) or State electric restructuring policy (sunset 12/31/13).....................	tyba 12/31/11	-596	-48	110	110	110	110	110	95	---	---	-315	---

Provision	Effective	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2013-17	2013-22
12. Excise tax credits and outlay payments for alternative fuel, and excise tax credits for alternative fuel mixtures (sunset 12/31/13) (other than liquefied hydrogen)............................	fsoua 12/31/11	-305	-56	---	---	---	---	---	---	---	---	-360	-360
Total of Energy Tax Extenders…………………………………………………………		**-4,657**	**-2,072**	**-977**	**-1,243**	**-1,354**	**-1,447**	**-1,492**	**-1,552**	**-1,662**	**-1,692**	**-10,302**	**-18,146**
X. Budget Provision													
1. Amounts in applicable retirement plans may be transferred to designated Roth accounts without distribution................	[14]	293	784	914	1,058	1,229	1,405	1,526	1,593	1,661	1,723	4,278	12,186
Total of Budget Provision………………………………………………………………		**293**	**784**	**914**	**1,058**	**1,229**	**1,405**	**1,526**	**1,593**	**1,661**	**1,723**	**4,278**	**12,186**
NET TOTAL …………………………………………………………………………………		**-280,039**	**-335,127**	**-311,900**	**-342,888**	**-374,007**	**-404,531**	**-415,935**	**-448,310**	**-483,313**	**-519,683**	**-1,643,958**	**-3,915,717**

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding. The date of enactment is assumed to be January 2, 2013. Revenue provisions as submitted in statutory draft MAT12564.

Legend for "Effective" column:

abiUSa = articles brought into the United States after
amb = allocations made before
apa = appliances purchased after
apoia = amounts paid or incurred after
apoaa = amounts paid or accrued after
ara = amounts received after
bia = bonds issued after
cba = courses beginning after
cma = contributions made after
cmi = contributions made in
cpa = coal produced after
cyba = calendar years beginning after
da = distributions after
dmi = distributions made in
DOE = date of enactment
doioa = discharge of indebtedness occurring after
fsoua = fuel sold or used after
haa = homes acquired after
ipa = interest paid after
ma = months after
oia = obligations issued after
pma = payments made after
ppisa = property placed in service after
proaa = payments received or accrued after
qfatpca = qualified film and television productions commencing after
saa = stock acquired after
tyba = taxable years beginning after
vaa = vehicles acquired after
wpoifibwa = wages paid or incurred for individuals beginning work after

[1] Estimate includes the following outlay effects:	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2012-17	2012-22
Retain 10% bracket…………………………………………………………………	---	1,682	2,927	3,674	4,568	4,644	4,865	4,869	4,849	4,806	12,851	36,884
Retain the child tax credit at $1,000; refundable; AMT rules………………………	---	15,048	15,056	15,042	14,832	14,859	14,887	14,813	14,879	14,941	59,978	134,357
Marriage penalty - standard deduction and 15% rate………………………………	---	159	228	255	306	309	318	322	308	317	948	2,522
EIC modification and simplification ($3,000)……………………………………..	---	2,541	2,509	2,493	2,437	2,444	2,486	2,507	2,565	2,593	9,979	22,574
Dependent care tax credit…………………………………………………………	---	43	171	165	160	150	139	131	123	117	539	1,199
Adoption credit…………………………………………………………………	---	88	87	85	85	88	82	81	80	83	345	759
American opportunity tax credit …………………………………………………	---	3,191	2,929	2,848	2,677	2,512	---	---	---	---	11,645	14,157
Reduce the earnings threshold for the refundable portion of the child tax credit to $3,000…………………………………………………………	---	10,645	10,410	10,123	9,651	9,480	---	---	---	---	40,829	50,309
Extend EIC for larger families ……………………………………………………	---	1,611	1,559	1,495	1,422	1,395	---	---	---	---	6,088	7,483
EIC modification and simplification ($5,000)………………………………………	---	1,305	1,276	1,261	1,224	1,225	---	---	---	---	5,066	6,290
Refunds disregarded in the administration of Federal programs and federally assisted programs………………………………………………………………	- *Estimate to be Provided by the Congressional Budget Office* -											
Temporary increase in limit on cover over of rum excise tax revenues [10]………	199	23	---	---	---	---	---	---	---	---	222	222

[Footnotes for JCX-1-13 are continued on the following page]

Footnotes for JCX-1-13 continued:

[2] For head of household filers, the 35% bracket is extended to taxable income under $425,000.

[3] For head of household filers, the repeal of the overall limitation on itemized deduction and the personal exemption phase out applies for AGI under $275,000.

[4] Estimates includes the following budget effects:

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2012-17	2012-22
Total Revenue Effects	-230	-1,153	-1,176	-1,200	-1,224	-1,248	-1,273	-1,299	-1,325	-1,351	-4,982	-11,477
On-budget effects	-153	-769	-784	-800	-816	-832	-849	-866	-883	-901	-3,321	-7,652
Off-budget effects	-77	-384	-392	-400	-408	-416	-424	-433	-442	-450	-1,661	-3,826

[5] Loss of less than $500,000.

[6] Estimate includes the following effects:

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2013-17	2013-22
General Fund	-127	-20	---	---	---	---	---	---	---	---	-148	-148
OASDI	-63	-10	---	---	---	---	---	---	---	---	-72	-72

[7] Gain of less than $500,000.

[8] Estimate includes expensing for qualified real property.

[9] Effective for dividends with respect to taxable years of regulated investment companies beginning after December 31, 2011.

[10] Estimate provided by the Congressional Budget Office.

[11] Effective for property placed in service after December 31, 2012, in taxable years ending after such date.

[12] The technical correction is effective as if included in section 15321(b) of the Heartland, Habitat, Harvest and Horticulture Act of 2008.

[13] Inclusion of algae-based property effective for property placed in service after date of enactment.

[14] Effective for transfers after December 31, 2012, in taxable years ending after such date.

Estimate of the Budgetary Effects of H.R. 8, the American Taxpayer Relief Act of 2012, as passed by the Senate on January 1, 2013

(Millions of dollars, by fiscal year)

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2013-2017	2013-2022
						CHANGES IN REVENUES[a]						
Title I - General Extensions	-206,542	-266,004	-290,573	-315,761	-344,090	-372,728	-395,390	-426,716	-460,619	-496,647	-1,422,970	-3,575,062
Title II - Individual Tax Extenders	-5,901	-5,326	-326	-44	-52	-68	-76	-75	-76	-77	-11,647	-12,016
Title III - Business Tax Extenders	-63,033	-26,173	16,214	10,543	7,622	5,413	2,274	1,163	187	-133	-54,827	-45,923
Title IV - Energy Tax Extenders	-4,657	-2,072	-977	-1,243	-1,354	-1,447	-1,492	-1,552	-1,662	-1,692	-10,302	-18,146
Title V - Unemployment Compensation	0	13	41	42	32	15	12	2	0	0	128	158
Title IX - Budget Provisions	293	784	914	1,058	1,229	1,405	1,526	1,593	1,661	1,723	4,278	12,186
Total Changes in Revenues	**-279,840**	**-298,778**	**-274,707**	**-305,405**	**-336,613**	**-367,410**	**-393,146**	**-425,585**	**-460,509**	**-496,826**	**-1,495,340**	**-3,638,803**
On-budget revenues	*-279,700*	*-298,384*	*-274,315*	*-305,005*	*-336,205*	*-366,994*	*-392,722*	*-425,152*	*-460,067*	*-496,376*	*-1,493,607*	*-3,634,905*
Off-budget revenues	*-140*	*-394*	*-392*	*-400*	*-408*	*-416*	*-424*	*-433*	*-442*	*-450*	*-1,733*	*-3,898*
						CHANGES IN DIRECT SPENDING						
Title I - General Extensions[b]												
Estimated Budget Authority	2	36,315	37,154	37,443	37,364	37,106	22,777	22,723	22,804	22,857	148,278	276,544
Estimated Outlays	2	36,315	37,154	37,443	37,364	37,106	22,777	22,723	22,804	22,857	148,278	276,544
Title III - Business Tax Extenders[c]												
Estimated Budget Authority	199	23	0	0	0	0	0	0	0	0	222	222
Estimated Outlays	199	23	0	0	0	0	0	0	0	0	222	222
Title V - Unemployment Compensation												
Estimated Budget Authority	22,385	7,735	0	0	0	0	0	0	0	0	30,120	30,120
Estimated Outlays	22,385	7,735	0	0	0	0	0	0	0	0	30,120	30,120
Title VI - Medicare and Other Health Extensions												
Medicare Physician Payment Update												
Estimated Budget Authority	10,640	6,720	1,280	1,300	1,170	990	840	740	740	750	21,110	25,170
Estimated Outlays	10,640	6,720	1,280	1,300	1,170	990	840	740	740	750	21,110	25,170
Other Provisions[d]												
Estimated Budget Authority	202	-1,804	-4,428	-4,380	-4,436	-870	-1,020	-1,581	-1,459	-5,934	-14,846	-25,710
Estimated Outlays	2,330	-1,770	-4,380	-4,470	-4,460	-870	-1,020	-1,430	-1,500	-5,910	-12,750	-23,480
Subtotal, Title VI												
Estimated Budget Authority	10,842	4,916	-3,148	-3,080	-3,266	120	-180	-841	-719	-5,184	6,264	-540
Estimated Outlays	12,970	4,950	-3,100	-3,170	-3,290	120	-180	-690	-760	-5,160	8,360	1,690

(continued)

Estimate of the Budgetary Effects of H.R. 8, the American Taxpayer Relief Act of 2012, as passed by the Senate on January 1, 2013

(Millions of dollars, by fiscal year)

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2013-2017	2013-2022
Title VII - Extension of Agricultural Programs[e]												
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	0	0	0	0	0	0	0	0	0	0	0	0
Title VIII - Miscellaneous Provisions[f]												
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	0	0	0	0	0	0	0	0	0	0	0	0
Title IX - Budget Provisions												
Estimated Budget Authority	24,000	0	0	0	0	0	0	0	0	0	24,000	24,000
Estimated Outlays	14,248	6,080	2,247	771	452	0	0	0	0	0	23,798	23,798
Total Changes in Direct Spending												
Estimated Budget Authority	**57,428**	**48,989**	**34,006**	**34,363**	**34,098**	**37,226**	**22,597**	**21,882**	**22,085**	**17,673**	**208,884**	**330,346**
Estimated Outlays	**49,804**	**55,103**	**36,301**	**35,044**	**34,526**	**37,226**	**22,597**	**22,033**	**22,044**	**17,697**	**210,778**	**332,374**
NET INCREASE OR DECREASE (-) IN DEFICITS FROM CHANGES IN REVENUES AND DIRECT SPENDING												
Net Changes in Deficits	**329,644**	**353,881**	**311,008**	**340,449**	**371,139**	**404,636**	**415,743**	**447,618**	**482,553**	**514,523**	**1,706,118**	**3,971,177**
On-budget deficit change	*329,504*	*353,487*	*310,616*	*340,049*	*370,731*	*404,220*	*415,319*	*447,185*	*482,111*	*514,073*	*1,704,385*	*3,967,279*
Off-budget deficit change	*140*	*394*	*392*	*400*	*408*	*416*	*424*	*433*	*442*	*450*	*1,733*	*3,898*

Memorandum:

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2013-2017	2013-2022
Adjustment to caps on discretionary appropriations for 2013 and 2014 (subject to appropriation)[g]												
Estimated Authorization Level	*-2,000*	*-8,000*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*-10,000*	*-10,000*
Estimated Outlays	*-892*	*-5,212*	*-2,428*	*-894*	*-316*	*-172*	*0*	*0*	*0*	*0*	*-9,742*	*-9,914*

(continued)

Estimate of the Budgetary Effects of H.R. 8, the American Taxpayer Relief Act of 2012, as passed by the Senate on January 1, 2013

Sources: Congressional Budget Office and the staff of the Joint Committee on Taxation (JCT).
For additional details on the estimates of revenues prepared by JCT, see JCX-1-13, published at www.jct.gov.

Notes: Components may not sum to totals because of rounding.

Estimates are relative to CBO's March 2012 baseline.

a. For revenues, positive numbers indicate a decrease in the deficit; negative numbers indicate an increase in the deficit.

b. In addition to affecting revenues, some of the provisions in title I would affect direct spending primarily through payments for refundable tax credits (which are recorded in the budget as outlays).

c. Increases in direct spending result from payments to Puerto Rico and the Virgin Islands for excise taxes assessed on distilled spirits.

d. For most provisions in title VI, changes in budget authority and outlays are equal. The provision with the largest difference between budget authority and outlays is section 644, which would rescind about $2.3 billion of budget authority for the Consumer Operated and Oriented Plan program. CBO estimates that provision would reduce outlays by $0.2 billion, because CBO expects that most of that budget authority will lapse under current law.

e. Title VII would extend the authority to continue the direct spending programs in the Food, Conservation, and Energy Act of 2008 that provide price and income support to agricultural producers. Authority to continue those programs has expired, but this legislation would reestablish that authority until September 30, 2013. Extending new authority for those programs would cost nearly $5 billion in 2013; however, following procedures specified in the Balanced Budget and Emergency Deficit Control Act for preparing baseline spending estimates for expiring programs, CBO estimates that enacting title VII would result in no additional costs relative to the CBO baseline, which incorporates the assumption that those programs continue. In addition, the legislation would increase certain payments to dairy producers by $110 million in 2013 and reduce spending on nutrition education by the same amount in that year. (This cost estimate excludes spending on agriculture programs that would be subject to future appropriation.)

f. Section 802, which would prohibit a cost of living adjustment to the pay of Members of Congress during 2013, would save about $1 million in that year. CBO’s estimate of H.J. Res. 117, the Continuing Appropriations Resolution, 2013 (P.L. 112-175), already included those savings.

g. Title IX would reduce the cap on discretionary funding for nonsecurity programs for 2013 from $361 billion to $359 billion. However, appropriations provided thus far in 2013 for that category, under H.J. Res. 117, the Continuing Appropriations Resolution, 2013 (P.L. 112-175), total $356.163 billion on an annualized basis; therefore, reducing the nonsecurity cap to $359 billion would not have any impact on the budget relative to that current level of funding.

Suzanne L. Shier

Suzanne L. Shier is the Director of Wealth Planning and Tax Strategy for Personal Financial Services at Northern Trust. In this capacity, she is responsible for leading the Personal Financial Services wealth planning group and for providing thought leadership on federal tax issues of interest to clients, with a special emphasis on tax policy and legislation, charitable giving, cross-border trust design and fiduciary law.

Prior to joining Northern Trust, Ms. Shier spent 26 years as a partner at Chapman and Cutler LLP in Chicago, ultimately leading the firm’s Trusts and Estates Practice Group, representing individuals, charitable organizations, and corporate fiduciaries in a full range of estate planning and fiduciary services, including cross-border planning, and fiduciary administration matters.

Ms. Shier is an adjunct professor in the Master of Laws in Taxation Program at Northwestern University Law School and also a frequent speaker and author. She has been quoted in publications such as the Wall Street Journal and Bloomberg and has received numerous professional honors and recognitions.

Ms. Shier earned her bachelor’s degree with distinction in economics and sociology from the University of Michigan in 1982. She received her law degree, cum laude, from the Loyola University Chicago School of Law in 1985 and a master of laws in taxation from the DePaul University College of Law in 1997.

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Ms. Shier is a fellow of the American College of Trust and Estate Counsel where she is a member of the International Committee and a member of the International Bar Association, the Society of Trust and Estate Practitioners, the American Bar Association and the Chicago Estate Planning Council.

Amanda C. Andrews

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She received her law degree from Loyola University Chicago School of Law in 2010 and earned her Bachelor of Arts in English from Davidson College. Prior to law school, Andrews worked at Sotheby’s in their Private Client Services group in New York.

PERSONAL FINANCIAL SERVICES

"The hardest thing in the world to understand is the income tax."

- Albert Einstein

American Taxpayer Relief Act of 2012 and Other 2012/2013 Tax Highlights

CEPC

Presented by:
Suzanne L. Shier
Director of Wealth Planning and Tax Strategy
January 31, 2013

Rev. 1-30-2013

Northern Trust

northerntrust.com

Agenda

- Income Taxes
- The Alternative Minimum Tax (AMT)
- Estate, Gift and Generation-Skipping Transfer Taxes
- Qualified Charitable Distributions
- Medicare Related Provisions
- Other Considerations

2013 Tax Highlights – Tax Rates

Averting the Fiscal Cliff:

- On January 1, 2013, the 112th Congress passed the American Taxpayer Relief Act of 2012 ("ATRA"). On January 2, 2013, President Obama signed the bill into law, effective January 1, 2013.

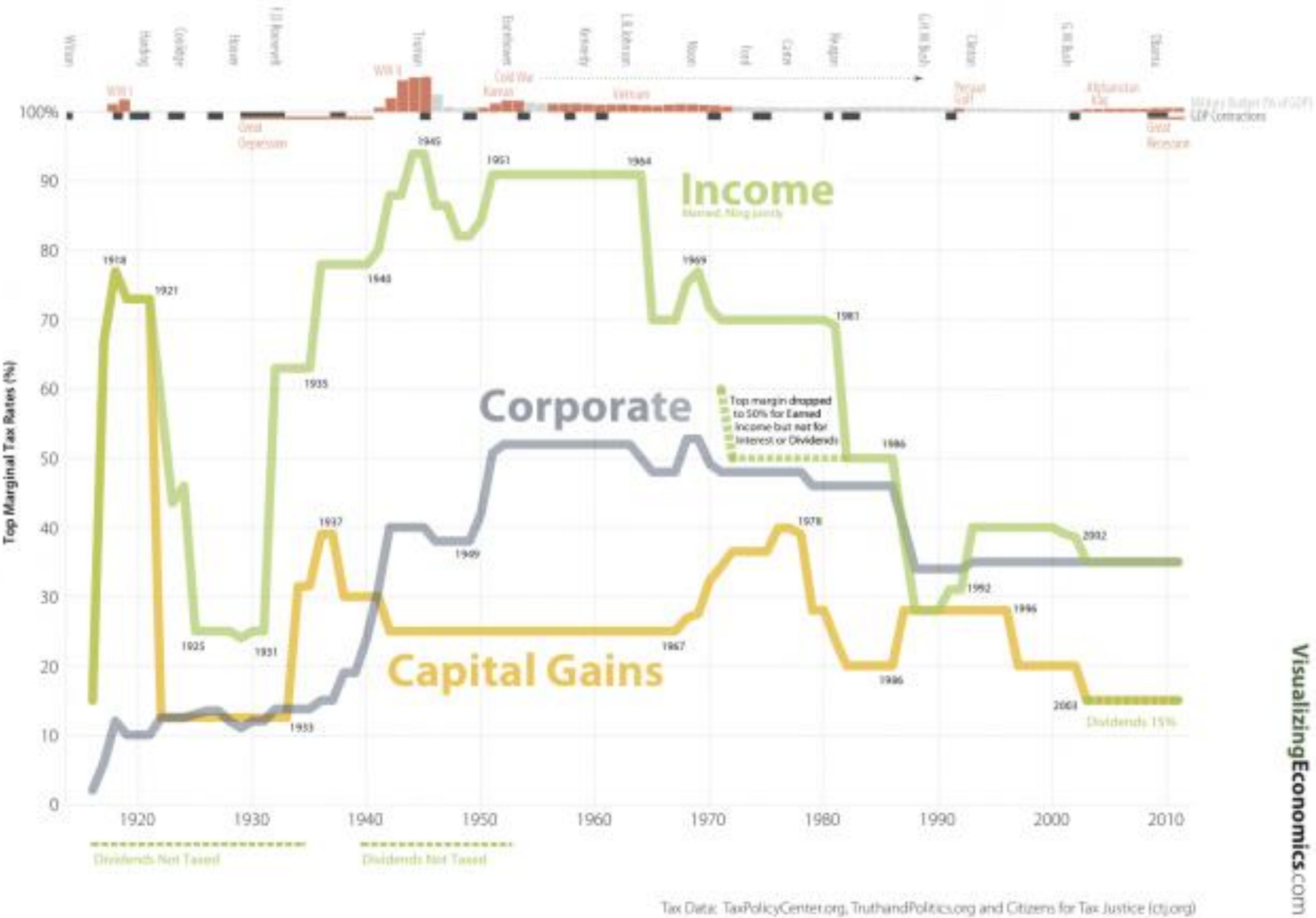
Income Taxes:

- New top marginal income tax rate – 39.6% on ordinary income above $400,000 for single taxpayers and $450,000 married taxpayers filing jointly. All other tax rates remain the same for individuals.
- No 35% tax rate bracket for estates and trusts.
- Long-term capital gains are taxed at three different rates:
  - 0% for taxpayers in the bottom two brackets (10% and 15%);
  - 15% for taxpayers in the 25%, 28%, 33%, and 35% tax brackets; and
  - 20% for taxpayers in the 39.6% tax bracket (single taxpayers with taxable income over $400,000 and married taxpayers filing jointly with taxable income over $450,000).
- "Qualified" dividends continue to be taxed at long-term capital gain rates.
- (The 25% rate for unrecaptured Code Section 1250 gain and the 28% for capital gain on collectibles still apply.)

Ordinary Income Tax Rates

	American Taxpayer Relief Act of 2012 (ATRA) 2013 Law
Individuals	10%, 15%, 25%, 28%, 33%, 35% and 39.6% on taxable income over $400,000 for singles and $450,000 for married filing jointly
Estates and Trusts	15%, 25%, 28%, 33%, and 39.6%

Historical Tax Rates 1916-2011



Individual Income Tax Extenders

- **Extension of expired or expiring individual tax provisions:**
  - Deduction for state and local sales taxes
  - Qualified tuition expenses
  - Qualified charitable distributions

2013 Tax Highlights – Deductions and Exemptions

One Way to Raise Taxes Is Limit Deductions:

- "Pease" limitation reinstated for 2013 and beyond –
    - Limits many itemized deductions for single filers whose Adjusted Gross Income (AGI) is greater than $250,000 and married filing jointly with AGI greater than $300,000.
    - The limitation is 3% of the amount in excess of the AGI thresholds listed above.
    - Maximum limitation is 80% of deductions.
    - The AGI threshold amounts are indexed for inflation.
- Medical deduction limitation increased (this was part of "Obamacare") –
    - Starting in 2013 the threshold to deduct medical expenses increases from 7½% of AGI to 10% of AGI.

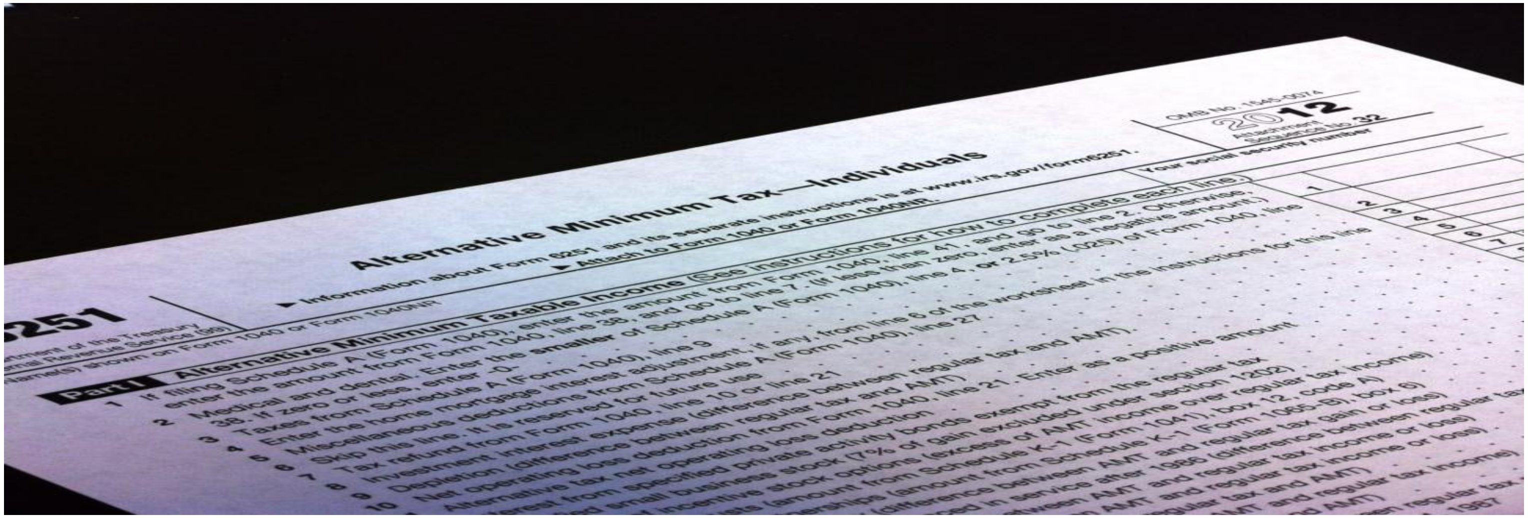
Personal Exemption Phaseout "PEP":

- In 2013, each taxpayer is entitled to a personal exemption of $3,900.
- The exemption is phased out in 2% increments above the same AGI thresholds delineated above for the Pease limitation.
- PEP may be fully phased out.

2013 Tax Highlights – Alternative Minimum Tax ("AMT")

The American Taxpayer Relief Act "Patches" the AMT:

- The "patch" applies to 2012.
- The 2012 "patch" is an income exemption from AMT taxes of $50,600 for single taxpayers and $78,750 for married taxpayers filing jointly.
- The AMT exemption amount is permanently indexed for inflation.
- It is estimated that the "patch" will keep approximately 60 million taxpayers out of AMT for the 2012 tax year.



AMT Thresholds

	2012 Law	Scheduled 2013 Law (had ATRA not been enacted)	American Taxpayer Relief Act of 2012 (ATRA) 2013 Law
Married Joint/ Surviving Spouse	$45,000 increased to $78,750 retroactively by ATRA	$45,000	$80,800
Married Separate	$22,500 increased to $39,375 retroactively by ATRA	$22,500	$40,400
Single/ Head of Household	$33,750 increased to $50,600 retroactively by ATRA	$33,750	$51,900

2013 Tax Highlights – Gift, Estate and GST Taxes

Gift, Estate and GST Taxes –

- ATRA makes gift, estate, and GST tax rates and exclusion and exemption amounts permanent.
  - The maximum federal gift, estate, and GST tax rate is 40%.
  - The "applicable exclusion amount" (the amount you can give without paying gift or estate tax) stays at $5,000,000 and is indexed for inflation.
  - The 2013 amount is $5,250,000.
- ATRA makes "portability" permanent. This means that a surviving spouse may utilize the unused estate tax applicable exclusion amount from a deceased spouse. (This is no reason to avoid estate planning.)
- The generation-skipping transfer tax exemption is $5,000,000 and indexed for inflation. Portability does not apply to the GST tax exemption.
- The 2013 annual gift exclusion amount is $14,000.
- Congress did not make any legislative changes to: the grantor retained annuity trust rules; the rules related to discounting closely held businesses; GST "dynasty" trusts; or the taxation of "grantor" trusts.

Gift, Estate and GST Exclusion/Exemption

	American Taxpayer Relief Act of 2012 Exclusion/ Exemption	2013 Exclusion/ Exemption Adjusted for Inflation	Highest Marginal Tax Rate
Gift	$5,000,000 adjusted for inflation	$5,250,000	40%
Estate	$5,000,000 adjusted for inflation (with portability)	$5,250,000	40%
GST	$5,000,000 adjusted for inflation	$5,250,000	40%

2013 Tax Highlights – An Opportunity to Give to Charity

Qualified Charitable Distributions

- ATRA allows qualified charitable distributions from IRAs for 2012 and 2013.
  - For 2012:
    - Distributions made **prior to February 1, 2013,** may be deemed to have been made on December 31, 2012; and
    - Distributions taken in cash in December of 2012 may be contributed to a qualified charity **before February 1, 2013** and be treated as a qualified charitable distribution.
  - For 2013:
    - Taxpayers may make qualified charitable distributions for the 2013 tax year any time through the end of the year.
- A qualified charitable distribution (QCD) is an otherwise taxable distribution from an IRA (other than an ongoing SEP or SIMPLE IRA) owned by an individual who is 70½ years of age or over paid directly from the IRA to a qualified charity. An IRA owner may exclude from gross income up to $100,000 of a QCD made for a year, and a QCD may be used to satisfy part or all of IRA required minimum distributions (RMDs) for the year.

Health Care and Education Reconciliation Act of 2010

Enacted in 2010 – some provisions of this law phase in over time.

Here are some:

- 2012 –
  - 2012 Forms W-2 will show value of employer provided health care.
- 2013 –
  - Medicare - 0.9% increase for wages over $200,000 and $250,000 for single and married filing joint taxpayers, respectively.
  - Medicare - 0.9% increase for self-employed individuals' self-employment income over $200,000 and $250,000 for single and married filing joint taxpayers, respectively.
  - 3.8% tax on the Net Investment Income of high-income taxpayers.
    - The new Medicare tax is levied on the lesser of "Net Investment Income" and the taxpayer's modified AGI in excess of $200,000 and $250,000 for single and married filing joint taxpayers, respectively.

New Medicare Related Taxes Effective January 1, 2013: Four Things to Know

1

Additional 0.9% Medicare tax on wages for high-income earners

- Currently, employees pay a Medicare tax of 1.45% on their earned income and employers pay a Medicare tax of 1.45% on employees' earned income.
- As of January 1, 2013: Same as above, PLUS a high-income employee will pay an additional 0.9% Medicare tax (for a total of 2.35%) on his or her high level earned income.

2

Additional 0.9% Medicare tax on high-income self-employed individuals' self-employment income

- Currently, self-employed individuals pay a Medicare tax of 2.9% on their self-employment income.
- As of January 1, 2013: Same as above, PLUS a high-income self-employed individual will pay an additional 0.9% Medicare tax (for a total of 3.8%) on his or her high level self-employment income.

ADDITIONAL TAX ONLY APPLIES TO WAGES IN EXCESS OF THE FOLLOWING DOLLAR AMOUNTS:

- $250,000 for married persons filing jointly
- $125,000 for married persons filing separately
- $200,000 for all others

NOTE: The threshold amounts are NOT indexed for inflation over time.

Example: Single individual, $300,000 in wage income in 2013

Wage Income	**$300,000**
Less: Threshold	**$200,000**
	$100,000

$100,000 X 0.9%= Additional Medicare tax on earnings of $900

New Medicare Related Taxes Effective January 1, 2013: Four Things to Know

3 A new 3.8% Medicare contribution tax on high-income taxpayers' Net Investment Income

- The 3.8% tax is assessed on the LESSER of:
  - Net Investment Income, and
  - The excess of Modified Adjusted Gross Income (MAGI) over a threshold amount ($250,000 for married persons filing jointly or a surviving spouse, $125,000 for married persons filing separately, and $200,000 for all others). **NOTE:** The threshold amounts are NOT indexed for inflation over time.
- Calculating the tax:
  - Step 1 - Determine if your MAGI is below the threshold amount. If it is below the threshold amount, you are NOT subject to this surtax. If it is above the threshold amount, proceed to Step 2.
  - Step 2 - Calculate the amount of your Net Investment Income.
  - Step 3 - Determine which number is lower, the excess of your MAGI over the threshold amount or your Net Investment Income. Multiply the lower of these two numbers by 3.8% --- this is the amount that you owe in tax due to the Medicare surtax on Net Investment Income.

Example: Married couple, Net Investment Income of $100,000 in 2013 along with taxable profit sharing plan distributions of $300,000

MAGI	**$400,000**
Less: Threshold Amount	**$250,000**
Excess	**$150,000**
Net Investment Income	**$100,000**
Lesser of $150,000 and $100,000	**$100,000**

3.8% x $100,000= Additional Tax of $3,800

New Medicare Related Taxes Effective January 1, 2013: Four Things to Know

4 For estates and trusts, the threshold is much lower

- The 3.8% Medicare surtax applies to the undistributed Net Investment Income of estates and trusts.
  - For purposes of this tax, business income from a passive activity for the trust or estate will also be considered as Net Investment Income.
- The threshold is the level at which the maximum marginal income tax rate is reached for an estate or trust ($11,950 in 2013).
- For trusts and estates, the 3.8% tax will apply to the LESSER of:
  - The undistributed Net Investment Income, and
  - The excess of Adjusted Gross Income over the dollar amount at which the highest income tax bracket applicable to a trust or estate begins (in 2013, $11,950).
- Remember: as written, the law does not apply to trusts and estates that are required to distribute, or do distribute, all of their taxable income annually—the law only applies to trusts and estates that are not required to distribute all of their taxable income and do not.

Other Items to Consider

- **Foreign Assets**
  - The IRS is focused on foreign assets. Failure to disclose foreign assets and accounts may result in significant penalties and increase the statute of limitations.
  - FATCA Tax Form 8938 – Certain disclosures of foreign assets are required. This is in addition to the FBAR Form TD 90-22.1.

- **1099 Reporting**
  - 1099-INT and 1099-DIV are mailed by January 31 if the account holder receives only one of these forms. Forms 1099-B are mailed by February 15, if the account holder only receives this form from the payor.
  - Combined Forms 1099 are due February 15, unless the payor receives an extension from the IRS to March 15.

Business Tax Extenders

- **Extension of expired or expiring business tax provisions:**
  - Research tax credit
  - Bonus depreciation (extended into 2014) and section 179 expensing
  - Subpart F active financing exemption
  - CFC lookthrough treatment
  - 15 year recovery period for leasehold improvements and restaurant property
  - Production tax credit for wind with new "placed in service" rule

A Recap of 2013 Considerations

1. High income earners affected by tax rate changes and the new Medicare tax should review their estimated payment amounts for 2013.

2. Taxpayers who earn wages above $200,000 should review their 2013 wage withholding.

3. The 2012 transition rule allowing certain taxpayers who are at least 70 1/2 and want to make charitable gifts from their IRA for 2012 expires January 31, 2013.

4. Be aware of reporting requirements if you have an interest in <u>any</u> foreign assets.

5. Keep an eye on the news for new tax legislation.

Looking Ahead

Upcoming "cliffs"–

- March 1, 2013, the Budget Control Act (BCA) sequestration:
    - The BCA established spending caps by directing $1.2 trillion in automatic, across the board spending cuts.
    - ATRA delayed the implementation of the cuts by two months, until March 1.
- March 27, 2013, appropriations provisions expire
- May 19, 2013, the debt limit

Suzanne L. Shier
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Suzanne L. Shier is the Director of Wealth Planning and Tax Strategy for Personal Financial Services at Northern Trust. In this capacity, she is responsible for leading the Personal Financial Services wealth planning group and for providing thought leadership on federal tax issues of interest to clients, with a special emphasis on tax policy and legislation, charitable giving, cross-border trust design and fiduciary law.

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Ms. Shier is an adjunct professor in the Master of Laws in Taxation Program at Northwestern University Law School and also a frequent speaker and author. She has been quoted in publications such as the Wall Street Journal and Bloomberg and has received numerous professional honors and recognitions.

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