

Trusts & Estates Update: January 2013

By RIW on January 14, 2013

Trusts & Estates Update

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What Does The New Tax Act Mean For You And Your Estate Plan?

As has become customary over the last several years, Congress acted at the very last minute to avert the "Fiscal Cliff" by passing the American Taxpayer Relief Act of 2012 ("ATRA"). ATRA was signed into law on January 2, 2013, providing much needed certainty regarding federal estate, gift, Generation-Skipping Transfer ("GST") and individual income taxes. However, not all fiscal cliff issues were resolved with ATRA, leaving clients and practitioners wondering what the future holds as sequestration, other spending cuts, the looming debt ceiling, and additional revenue raising measures are scheduled to be addressed in the months ahead.

After a decade of legislation with staggered and expiring provisions, and all the uncertainty that caused, ATRA made the federal estate, gift and GST tax exemptions in place last year permanent. This is terrific news, as individuals still have a \$5 million federal estate, gift and GST tax exemption, indexed for inflation (\$5,250,000 in 2013). However, the top tax rate for these taxes increased from 35% to 40%. Fortunately, the portability provisions that were instituted at the end of 2010 were also made permanent by ATRA. These provisions give a surviving spouse the opportunity to use the deceased spouse's unused estate tax exemption for his or her own gift and estate tax minimization planning. [Click here](#) to read full article.

SNAPSHOT OF OTHER ATRA PROVISIONS

[Permanent Changes](#)

Income Tax Changes

- Prior federal income tax rates remain set at 10%, 15%, 25%, 28%, 33%, and 35%.

- New top income tax rate of 39.6% for taxpayers above indexed threshold amounts as follows:
 - \$400,000 – Individuals
 - \$425,000 – Head of Household
 - \$450,000 – Married Filing Jointly
 - \$225,000 – Married Filing Separate
- Phase out of personal exemptions and itemized deductions by certain individuals:
- Personal exemption phases out by the amount by which adjusted gross income exceeds certain indexed thresholds of \$250,000 and above.
- Itemized deductions are reduced by 3% of the amount by which the taxpayer's adjusted gross income exceeds certain indexed thresholds of \$250,000 and above.

Tax Rates on Capital Gains and Qualified Dividends

- 0% rate for taxpayers in the 10% or 15% tax bracket.
- 15% rate for taxpayers in the 25%, 28%, 33%, or 35% tax brackets.
- 20% rate for taxpayers in the new 39.6% bracket.

Alternative Minimum Tax (AMT)

- Current AMT exemption amounts remain the same as in 2012. The exemption amounts will be indexed for inflation starting in 2013.
- Provisions allowing nonrefundable personal income tax credits to be used to offset AMT liability extended permanently. [Click here to read full article.](#)

Member Spotlight

Lisa Weinstein Burns is a shareholder of Ruberto, Israel & Weiner P.C. and Co-Chair of the Trusts & Estates Group. For more than 18 years, Lisa has concentrated her practice in the areas of tax planning, multi-generational wealth transfers, business succession planning, estate planning and administration. In addition to tax planning, Lisa helps clients to preserve wealth and family harmony, while addressing the needs of multiple generations.

In 2008, Women's Business Boston readers named Lisa one of The Top 10 Lawyers. She has also been recognized as a "Super Lawyer Rising Star" in the area of Trusts and Estates. Lisa is a lecturer for Massachusetts Continuing Legal Education and is involved in leadership roles in local organizations such as the Boston Estate Planning Council.

For a full description of our **Trusts & Estates Group** and a list of all of our practice areas, visit www.riw.com or contact any member of the T&E Group listed below.

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