Summary of the American Taxpayer Relief Act of 2012

The Senate, the House of Representatives and President passed the American Taxpayer Relief Act of 2012 (the “Act”). The Act is effective January 1, 2013, and affects the federal income, estate, and gift taxes as follows:

A. The Act adds a new income tax bracket to the federal income tax rate schedule of 39.6% for those taxpayers in the highest income brackets as follows:

   a. Married couples with more than $450,000 of taxable income,

   b. Single individuals with more than $400,000 of taxable income,

   c. Married taxpayers filing separately with more than $225,000 of taxable income,

   d. Head of household filers with more than $425,000 of taxable income, and

   e. Trusts and Estates with <u>more than $11,950</u> in taxable income.

   f. Except for high income taxpayers, the Act maintains the same income tax rates from 2012 of 10%, 15%, 25%, 28%, 33%, and 35% for individuals.

   g. The Act maintains the same income tax rates from 2012 of 15%, 25%, 28% and 35% for Trusts and Estates with less than $11,950 in taxable income.

B. The 3.8% Medicare tax is now in effect and applies as follows:

   a. Applies to single individual’s taxable income over $200,000 and for married taxpayers filing jointly taxable income over $250,000.

   b. Applies to Trusts and Estates with undistributed taxable income of over $11,950.

   c. Applies to taxable interest, dividends, non-active rental income, and certain other items of "passive income".

   d. For example, if a single person had $150,000 of wage income and $75,000 of dividend income (total of $225,000) the tax will be based upon $25,000 (the excess over $200,000) of dividend income, and will result in tax of $950.

   e. For example, if a Trust had $12,000 of ordinary income and $20,000 of dividend income the tax will be based upon $20,000 (the excess of "passive income" over $11,950, even though there is income of $20,050 over $11,950) of dividend income, and will result in tax of $760.

C. The Act increased the maximum capital gains tax rate to 20% as follows:

   a. For single taxpayers with more than $400,000 in taxable income.

   b. For married taxpayers with more than $450,000 of income.

   c. Applies to Trusts and Estates with undistributed taxable income of over $11,950.

   d. The 15% capital gains tax rate will remain for taxpayers whose taxable income is between $142,700 and $388,350 and for married couples filing jointly.

   e. The 15% capital gains tax rate will remain for Trusts and Estates with undistributed taxable income of less than $11,950.

D. Qualified dividends will be taxed under the capital gains rates and the tax rate for qualified dividend income for high income tax bracket taxpayers will be 23.8% (20% capital gains tax plus the 3.8% Medicare tax).

E. The Act made the federal estate and gift tax rules that were put into place temporarily in 2010 permanent.

   a. The $5,000,000 applicable exclusion amount for gift tax, estate tax, and generation skipping transfer tax purposes has been continued. The Act provides for an inflation index, so the applicable exclusion amount is approximately $5,250,000 for 2013.

   b. Any gifts made during a calendar year that exceed the $14,000 per year annual exclusion will reduce the $5,250,000 lifetime applicable exclusion amount.

   c. The estate tax rate (on estates over the $5,250,000 applicable exclusion amount) will be 40% instead of 35%.

   d. The portability rules allowing a surviving spouse to "port" their Deceased Spouse's Unused Exclusion (DSUE) are now permanent.

   e. The gift, estate and generation skipping transfer tax applicable exclusion amount increases do not apply to Non Resident Aliens. Thus, Qualified Domestic Trusts (QDOT's) still need to be established for a Non Resident

Alien. The estate tax exemption of $60,000 still applies to Non Resident Aliens spouses.

F. The following miscellaneous deductions, exclusions, and credits have been extended for 2013:

   a. The exclusion of discharge of qualified principal residence indebtedness from gross income for bank settlements;

   b. Treatment of mortgage insurance premiums as qualified residence interest;

   c. Deduction of state and local general sales taxes;

   d. Above the line deduction for qualified tuition and related expenses;

   e. Tax-free distributions from individual retirement plans for charitable purposes; and

   f. The child tax credit of $1,000.

G. The phase out of personal exemptions and itemized deductions has been reset to $300,000 for joint filers and $250,000 for single filers.

H. The social security tax imposed on employees has increased from 4.2% to 6.2%.

I. The Medicare tax imposed upon employees has been increased from 1.45% to 2.35% for wage earners who receive more than $200,000 of wages. The extra 0.9% begins at the $200,000 level for single filers and $250,000 for married taxpayers filing jointly.

J. The Act made a permanent inflation adjusting exemption for the alternative minimum tax in 2012 of $78,750 for married taxpayers and $50,600 for single filers.