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The Fiscal Cliff Avoided: Key Provisions of the American Taxpayer Relief Act of 2012

On the morning of January 1, 2013, the tax law was set to revert back to the year 2000 tax regime. This would have resulted in a significant tax increase for all Americans. On January 2, President Obama signed into law the American Taxpayer Relief Act of 2012 (the 2012 Act), which will provide some relief to taxpayers. The 2012 Act addresses the estate and gift tax exemption, as well as modifies a number of income tax provisions.

Key income tax provisions in the 2012 Act include the following:

- The federal income tax rate for taxpayers with income over $400,000 (single) or $450,000 (joint filers) will increase from 35% to 39.6%. The Bush-era tax cuts will be permanently retained for all other taxpayers.
- Capital gain and dividend rates for taxpayers with income over $400,000 (single) or $450,000 (joint filers) will increase from 15% to 20%. The rates will remain at the current rates for all other taxpayers.
- Personal exemptions will be phased out and itemized deductions will be limited for taxpayers with income over $250,000 (single) or $300,000 (joint filers).
- The alternative minimum tax will receive a permanent patch to annually adjust for inflation. Such patch will be made retroactive to 2012.
- The 2% cut in the Social Security tax for all earners up to the Social Security wage base, which expired on December 31, 2012, will not be extended.
- The Research and Experimentation Tax Credit, the Production Tax Credit and the 50% bonus depreciation rules will each be extended through December 31, 2013.

Key estate, gift and generation skipping tax provisions include the following:

- The federal estate and gift tax exclusion amount remains at $5 million, adjusted annually for inflation (likely to be greater than $5,120,000 for 2013).
- The highest federal estate and gift tax rate increases from 35% to 40%.
- The gift tax annual exclusion increases from $13,000 per year, per donee, to $14,000 per year, per donee.
- The basis of assets acquired from a decedent will be the fair market value of the property at the date of the decedent's death.
- The generation-skipping transfer tax exemption amount remains at $5 million, adjusted annually for inflation (likely to be greater than $5,120,000 for 2013).

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- The generation-skipping transfer tax rate increases from 35% to 40%.
- Portability continues to be an option for surviving spouses. A surviving spouse can elect to take advantage of any unused portion of the estate tax exclusion of his or her predeceased spouse, allowing married couples to effectively shield up to $10 million from estate tax.

The continuation of the $5 million exemption surprised many observers. President Obama negotiated for a reduced exemption, and most experts predicted that the gift and estate tax exemption would be significantly lower.

While the fiscal cliff legislation averted some of the fear of tax increases, the legislation increases taxes for many taxpayers and it did not address long-term budget issues. The budget discussion is expected to continue in the months to come. We will continue to follow the progress of any tax law changes.

If you have any questions, feel free to contact Michael Goller, any member of the Reinhart Tax Team or your Reinhart attorney.

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