HORAN Advisor Alert

The Fiscal Cliff Legislation: A Summary

The House voted late Tuesday and President Obama signed Wednesday, the American Taxpayer Relief Act of 2012. In an effort to keep you as up-to-date as possible, below is a synopsis of some of the key pieces of the new legislation that may be most relevant to you, our valued client.

Tax Brackets:
The bill permanently retains the 10 percent, 15 percent, 25 percent and 28 percent income tax brackets from the Bush tax cuts. It keeps the 33 percent and 35 percent income tax brackets from the Bush tax cuts for taxable income under $400,000 (single) and $450,000 (joint filers). It imposes a 39.6 percent tax rate on income above these levels.

2013 Taxable Income Brackets and Rates Under H.R. 8 as Amended by Senate		
Rate	Single Filers	Married Joint Filers
10%	$0	$0
15%	$8,950	$17,900
25%	$36,250	$72,500
28%	$87,850	$146,400
33%	$183,250	$223,050
35%	$398,350	$398,350
39.6%	$400,000+	$450,000+

Deduction for State and Local General Sales Taxes:
The bill extends, for two years, the election to take an itemized deduction for state and local general sales tax in lieu of itemized deduction.

Payroll Tax:
The bill increases payroll taxes to 6.2 percent from 4.2 percent on workers' first $113,700 of income. This will be in effect immediately - January 1, 2013.

Permanent Extensions of 2001 Tax Relief:
The bill permanently repeals the personal exemptions phase-out (PEP) for certain taxpayers with adjusted gross income over $250,000 (single), $275,000 (head of household) and $300,000 (joint filers).

The bill limits itemized deductions (Pease) for adjusted gross income over $250,000 (single), $275,000 (head of household) and $300,000 (joint filers).

Permanent Extensions of 2003 Tax Relief:
Capital gains tax and dividends tax will be 20 percent for taxpayers with income over $400,000 (single) and $450,000 (joint filers). This does not include the new 3.8 percent health care tax on investment income above $200,000 (single) and $250,000 (joint filers) in adjusted gross income, so the top rate for capital gains and dividends will be 23.8 percent. For lower income levels, the tax will be 0 percent, 15 percent or 18.8 percent.

Extensions of 2009 Tax Relief:
The bill permanently sets Alternative Minimum Tax (AMT) exemption at $50,600 (single) and $78,750 (joint filers) for 2012 and adjusts for inflation thereafter.

Deduction for state and local sales taxes:
The bill extends for two years the election to take an itemized deduction for State and local general sales taxes in lieu of the itemized deduction permitted for state and local income taxes.

Estate Taxes:
The bill makes permanent estate, gift and generation skipping transfer taxes that were set to expire. The bill imposes a $5,000,000 individual exemption and makes permanent the indexed exclusion amount and indexes that amount for inflation going forward, but sets the top tax rate to 40 percent for estates of descendants dying after December 31, 2012.

The legislation includes portability of unused exemption. The executor of a deceased spouse's estate can transfer any unused exemption to the surviving spouse for estates of descendants dying after December 31, 2010 and before December 31, 2012. The bill makes permanent this provision and is effective for estates of descendants dying after December 31, 2012.

The bill also includes the reunification of the gift and estate tax exemption. A single lifetime exemption could be used for gifts and/or bequests. The bill permanently extends unification and is effective for gifts made after December 31, 2012.

In 2010, Congress passed a bill that set the exemption at $5 million per person with a top tax rate of 35 percent for the estate, gift and generation skipping transfer taxes for two years, through 2012. The exemption amount was indexed beginning in 2012. The bill makes permanent the indexed exclusion amount from the 2010 bill and indexes that amount for inflation going forward, but sets the top tax rate to 40 percent for estates of descendants dying after December 31, 2012.

Roth Conversions for Retirement Plans:
The bill allows any amount in a non-Roth qualified retirement account to be converted to a Roth account in the same plan. The amount converted would be subject to regular income tax.

IRA Charitable Deduction:
This provision allows IRA owners 70½ and older to contribute up to $100,000 of IRA assets directly to a tax-free charity. The contributions are not reported on Schedule A (itemized deductions); instead they are free from reporting as income

on the front page of the Form 1040 (allowing less income to be reported which may have triggered higher taxes on Social Security payments or higher Medicare premiums).

Congress also carved out a compromise for 2012 charitable donations. It only applies to taxpayers who delayed taking their 2012 distribution in December. If a taxpayer donates cash to a charity between now and January 31, 2013, it can count to satisfy all or part of the 2012 minimum required distribution.

Corporations Converting to an S-Corp:
A conversion is not a taxable event if a taxable corporation converts into an S Corporation. The S Corporation must hold its assets for 7 years in order to avoid a tax on any built-in gains that existed at the time of the conversion. The new bill reduced the period from 10 years to 7 years.

Bonus Depreciation for Businesses:
The provision extends the current 50 percent expensing provision for qualifying property purchased and placed in service before January 1, 2014.

Medicare Extensions or "Doc Fix":
Medicare physician payment rates were scheduled to be reduced by 26.5 percent on December 31, 2012. This new bill would avoid that reduction and extend 2012 Medicare payment rates through December 31, 2013.

As more information is released and future decisions are made, we will continue to update you. Should you have any questions related to this legislation or how it may affect you, please do not hesitate to contact your HORAN advisor.

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