2013 Payroll Fact Sheet

American Taxpayer Relief Act

In the early morning hours of Jan. 1, 2013, the Senate, by a vote of 89-8, passed H.R.8, the "American Taxpayer Relief Act" (the Act). Later on that same day-hours after the government had technically gone over the "fiscal cliff"-the House of Representatives, by a vote of 257 to 167, also passed the bill. The Act, which the President is expected to quickly sign into law, would prevent many of the tax hikes that were scheduled to go into effect this year and retain many favorable tax breaks that were scheduled to expire. However, it would also increase income taxes for some high-income individuals and slightly increase transfer tax rates.

Highlights of the Act include the following:

- **Tax Rates -** For tax years beginning after 2012, the income tax rates for individuals will stay at 10%, 15%, 25%, 28%, 33% and 35% (instead of moving to 15%, 28%, 31%, 36% and 39.6% as would have occurred under the EGTRRA sunset), but with a 39.6% rate applying for income above a certain threshold (specifically, income in excess of the "applicable threshold" over the dollar amount at which the 35% bracket begins). The applicable threshold is $450,000 for married filing joint (MFJ); $425,000 for heads of household (HOH); $400,000 for single filers; and $225,000 for married taxpayers filing separately (MFS). These dollar amounts are inflation-adjusted for tax years after 2013.

- **Payroll Tax Holiday NOT Extended -** FICA and Medicare taxes now rise back to the 7.65% we had prior to 2011. This means an immediate decrease in the net pay for your paycheck as well as your employees, if you have employees.

- **Permanent AMT Relief -** The Act provides permanent alternative minimum tax (AMT) relief. The Act permanently increases these exemption amounts to $50,600 for unmarried taxpayers, $78,750 for joint filers and $39,375 for married persons filing separately. In addition, for tax years beginning after 2012, it indexes these exemption amounts for inflation.

- **Capital Gain and Dividend Rates Rise for Higher-Income Taxpayers -** For tax years beginning after 2012, the top rate for capital gains and dividends will permanently rise to 20% (up from 15%) for taxpayers with incomes exceeding $450,000 for MFJ and $400,000 for single filers. When accounting for Code Sec. 1411's 3.8% surtax on investment-type income and gains for tax years beginning after 2012, the overall rate for higher-income taxpayers will be 23.8%.

  For taxpayers whose ordinary income is generally taxed at a rate below 25%, capital gains and dividends will permanently be subject to a 0% rate.

  Taxpayers who are subject to a 25%-or-greater rate on ordinary income, but whose income levels fall below the $450,000/$400,000 thresholds, will continue to be subject to a 15% rate on capital gains and dividends. The rate will be 18.8% for those subject to the surtax (Modified Adjusted Gross Income over the threshold amount $250,000 MFJ and $200,000 for single filers).

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- **PEP Limitations to Apply to "High-Earners" -** For tax years beginning after 2012, the Personal Exemption Phase-out (PEP), which had previously been suspended, is reinstated with a starting threshold for those making $300,000 for MFJ; $275,000 for HOH; $250,000 for single filers; and $150,000 for MFS. Under the phase-out, the total amount of exemptions that can be claimed by a taxpayer subject to the limitation is reduced by 2% for each $2,500 (or portion thereof) by which the taxpayer's AGI exceeds the applicable threshold. These dollar amounts are inflation-adjusted for tax years after 2013.

- **Itemized Deduction Limitations to Apply to "High-Earners" -** For tax years beginning after 2012, the limitation on itemized deductions, which had previously been suspended, is reinstated with a starting threshold for those making $300,000 for MFJ, $275,000 for HOH, $250,000 for single filers, and $150,000 MFS. Thus, for taxpayers subject to the limitation, the total amount of their itemized deductions is reduced by 3% of the amount by which the taxpayer's adjusted gross income (AGI) exceeds the threshold amount, with the reduction not to exceed 80% of the otherwise allowable itemized deductions. These dollar amounts are inflation-adjusted for tax years after 2013.

- **Transfer Tax Provisions Kept Intact with Slight Rate Increase -** The Act prevents steep increases in estate, gift and generation-skipping transfer (GST) tax that were slated to occur for individuals dying and gifts made after 2012 by permanently keeping the exemption level at $5,000,000 (as indexed for inflation). However, the Act also permanently increases the top estate, gift and rate from 35% to 40%. The Act also continues the portability feature that allows the estate of the first spouse to die to transfer his or her unused exclusion to the surviving spouse. All changes are effective for individuals dying and gifts made after 2012.

- **Depreciation and Special Depreciation Extended -** The American Taxpayer Relief Act extends through 2013 enhanced Code Sec. 179 small business expensing. The Code Sec. 179 dollar limit for tax years 2012 and 2013 is $500,000 with a $2 million investment limit. The 50% first year bonus depreciation (Sec. 168(k)) was also extended for one year.

- **Extends Unemployment Insurance Benefits for 1 Year -** This affects over 2 million Americans. The Act extends a host of individual provisions, including the treatment of mortgage insurance premiums as qualified residence interest, deductions for State and local general sales taxes, and the above-the-line deduction for qualified tuition and related expenses.

- **Business Tax Extenders -** Many key business tax breaks would be extended including depreciation provisions, notably including bonus depreciation (mentioned above), and the research and work opportunity tax credits.

Other Items - The Act extends many health and energy-related provisions.

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