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What does the "fiscal cliff" deal mean for your taxes?

To avoid the so-called fiscal cliff, Congress passed the American Taxpayer Relief Act of 2012 (ATRA) on Jan. 1. The act prevents income tax hikes for most taxpayers and averts a major expansion of the alternative minimum tax's (AMT's) reach. It also shrinks scheduled gift and estate tax increases and extends a variety of tax breaks for individuals and businesses. Here's a closer look at what it may mean for *your* taxes.

Rates, rates, rates

Had ATRA not been passed, individual tax rates would have increased considerably. Fortunately, the new law keeps — for 2013 and beyond — the 2012 ordinary-income rates of 10%, 15%, 25%, 28%, 33% and 35%. The steeper 39.6% rate will permanently return, however. It will be levied on taxable income exceeding $400,000 for singles, $425,000 for heads of households and $450,000 for married couples filing jointly. (These thresholds will be indexed for inflation in future years.)

Higher exemptions and inflation indexing reduce the likelihood that middle-income taxpayers could become subject to the AMT.

The permanence of these rates means that, for 2013, you can consider accelerating deductible expenses into the current year and deferring income to the next year, where possible. As long as you won't be in a higher tax bracket in 2014, this traditional timing strategy can be beneficial because it allows you to defer tax.

For most tax brackets, long-term capital gains rates will permanently be 15%, with taxpayers in the bottom two brackets paying 0%. Higher-income taxpayers will, however, face the permanent return of the 20% rate. The income thresholds are the same as the ones for the 39.6% ordinary-income rate.

Qualified dividends will permanently continue to qualify for long-term capital gains treatment. But taxpayers who face the higher 20% rate on long-term capital gains generally will also face it on qualified dividends. The good news is that this is much lower than the ordinary-income rate that would have applied without ATRA.

Finally, the permanent return of limits on personal exemptions and some itemized deductions could cause the effective income tax rate you pay to increase. The limits go into effect when adjusted gross income (AGI) exceeds $250,000 (singles), $275,000 (heads of households) and $300,000 (joint filers). (The thresholds will also be indexed for inflation in the future.)

AMT less of a danger

The fiscal cliff threatened to drag lots of people into the alternative minimum tax (AMT) trap. The AMT is a separate tax system designed to ensure that "wealthy" taxpayers with "excessive" deductions pay some income tax. Basically, if AMT liability exceeds regular income tax liability, you must pay the AMT. And the expiration of higher AMT exemptions at the end of 2011 was one of the tax increases contributing to the fiscal cliff.

ATRA permanently — and retroactively to Jan. 1, 2012 — extends higher exemption amounts. Beginning with the 2013 tax year, these amounts will be indexed for inflation. The higher exemptions and inflation indexing reduce the likelihood that millions of middle-income taxpayers could become subject to the AMT.

Gift and estate taxes

Compared to what otherwise would have occurred, ATRA provides substantial relief. However, compared to 2012, it will result in an estate tax increase for some taxpayers.

Without ATRA, gift, estate and generation-skipping transfer tax exemptions would have dropped more than $4 million and the top rates would have skyrocketed from 35% to 55% beginning in 2013. ATRA permanently retains the 2012 exemptions (indexed for inflation, for a 2013 exemption of $5.25 million) and increases the top rates by five percentage points, to 40%.

Even with the rate increases, many taxpayers can be pleased with the changes. The exemptions are at an all-time-high level and will continue to increase with inflation. So even if you've used up your exemptions, each year you'll have a little more available. ATRA also makes exemption portability permanent, which will make it easier for married couples to take full advantage of their exemptions. And it makes permanent certain GST tax protections as well as a break for estates of owners of closely held businesses.

Tax breaks extended

ATRA also revives, extends or makes permanent these individual tax breaks:

- Deduction for state and local sales tax,
- Enhanced child tax credit and child and dependent care credit,
- Several education-related breaks,
- Many energy incentives,
- Deductions for certain mortgage insurance premiums and the exclusion for certain canceled mortgage debt, and
- For taxpayers age 70½ or older, the ability to make tax-free IRA distributions to charity (up to $100,000 per year).

The new law revives for 2012 and 2013 certain breaks for businesses that had expired at the end of 2011:

- Enhanced Section 179 expensing,
- Work Opportunity tax credit,
- Transit benefit parity,
- Research tax credit, and
- 15-year straight line depreciation for qualified leasehold or retail improvements and qualified restaurant property.

ATRA also extends 50% bonus depreciation through 2013; 2014 for certain property.

So much to cover

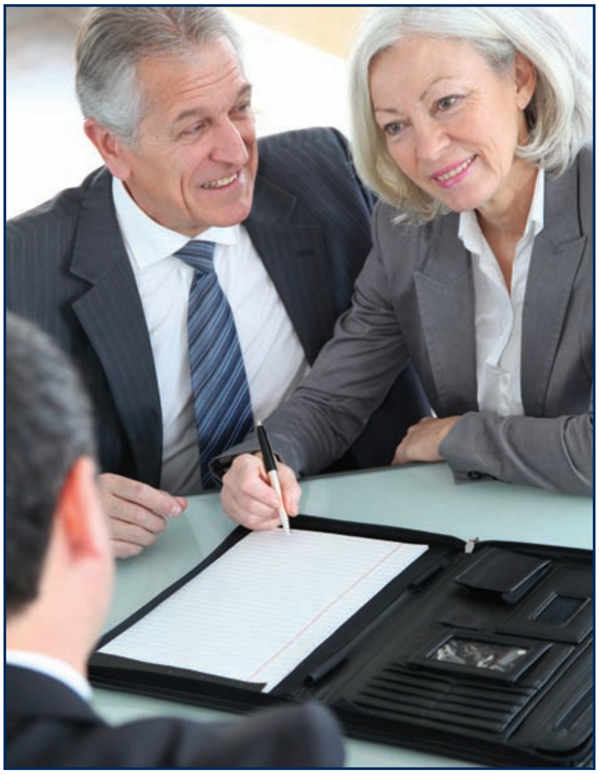
Although the new tax law revived most of the popular tax provisions, it didn't extend payroll tax relief, which means a tax hike for anyone with earned income. Also be aware that many breaks were extended only through 2013, and Congress may also look at tax reform this year. So there might be more changes in the future. ◈

Protect assets now or later with a trust

There are many potential threats to your net worth — or to the legacy you leave for your heirs. Among them are overall economic forces, a volatile stock market and taxes. Another important threat to consider (especially if you're an entrepreneur or in a profession that can lead to frivolous litigation) is creditors. And if your heirs are in such lines of work or are simply not good at managing money, creditors could ultimately take a large bite out of the assets you've gifted or bequeathed. One solution is to place assets in a trust.

Trusts 101

Trusts can be a great way to protect your assets — but the trust must become the owner of the assets and be *irrevocable*. That is, you as the grantor can't modify or terminate the trust after it's set up. This is the opposite of a "revocable trust," which allows the grantor to modify the trust. Once you transfer assets into an irrevocable trust, you've effectively removed all of your rights of ownership to the assets and the trust. The benefit is that, because the property is no longer yours, it's unavailable to satisfy claims against you.



A spendthrift trust won't avoid claims from your own creditors unless you relinquish any interest in the trust assets.

Placing assets in a trust won't allow you to sidestep responsibility for any debts or claims that are already outstanding at the time you fund the trust. There may also be a substantial "look-back" period that could dissuade you from creating such a trust. So it's a good idea to set up an asset protection trust long before a potential threat to your assets arises.

Safeguarding family assets

If you're concerned about what will happen to your assets after they pass to the next generation, you may want to consider a "spendthrift" trust. Despite the name, a spendthrift trust does more than just protect your heirs from themselves. It can protect your family's assets against dishonest business partners or unscrupulous creditors.

The trust also protects loved ones in the event of relationship changes. For example, if your son divorces, his spouse generally won't be able to claim a share of the trust property in the divorce settlement.

Several trust types can be designated a spendthrift trust — you just need to add a spendthrift clause to the trust document. This type of clause restricts a beneficiary's ability to assign or transfer his or her interests in the trust, and it restricts the rights of creditors to reach the trust assets. But a spendthrift trust won't avoid claims from your own creditors unless you relinquish any interest in the trust assets.

Bear in mind that the protection offered by a spendthrift trust isn't absolute. Depending on applicable law, it's possible for government agencies to reach the trust assets to, for example, satisfy a tax obligation.

You can gain greater protection against creditors' claims if you give your trustee more discretion over trust distributions. If the trust requires the trustee to make distributions for a beneficiary's support, for example, a court may rule that a creditor can reach the trust assets to satisfy support-related debts. For increased protection, give the trustee full discretion over whether and when to make distributions.

Relocating a trust

Offshore trusts are similar to domestic trusts with the exception that they're located in a foreign country — one with more favorable asset-protection laws.

When using an offshore trust, you may keep the trust *assets* in the United States. But relocating them to the country where you establish the trust generally offers greater protection. This is why offshore trusts are typically funded with cash or securities that can be readily moved, rather than with real estate or other property that could be seized by a U.S. court.

Why you can trust in trusts

Whatever type of trust you're considering, make sure you work closely with your financial advisor and your attorney. They can provide insight on which trust will work best in your circumstances and can help you navigate the more intricate issues. ◈

To B or not to B

Could your company benefit from being a B corporation?

Many business owners take pride in their company's financial performance as well as its ability to provide jobs for the community and products or services for customers, while operating ethically and considering their impact on the larger community and the environment.

Some owners would like to take their efforts a step further and focus on not only financial goals, but also social and environmental ones. Current U.S. law, however, compels most corporations to consider investors' return ahead of other goals. A relatively new type of corporate structure, known as the "benefit corporation" or "B corporation," provides an alternative: It allows a company to put equal emphasis on certain nonfinancial goals.

Goals go beyond finances

B corporations operate in much the same way as other types of corporations, but they must include social and environmental benefits in their bylaws. They must then report on their progress toward meeting these goals, much as they'd report on financial performance.

In states that have passed laws recognizing B corporations, companies can legally pursue both financial and nonfinancial goals. According to bcorporation.net, a website devoted to explaining the concept, laws facilitating the establishment of benefit corporations have been passed in 11 states and are moving forward in 16 other states.

Besides enjoying the legal structure available under these laws, companies also can pursue B corporation certification. B Lab, the 501(c)3 organization that administers the certification process, provides an independent verification that the firm "meets rigorous standards of social and environmental performance, accountability, and transparency."

Unlike some certifications, this extends beyond a single product or product line to cover an entire organization. Among the 600-some certified B corporations in the United States are Seventh Generation, a manufacturer of household products; ice cream makers Ben & Jerry's; and Etsy, an online marketplace for artisans and craftspeople.

Taking the plunge

Business owners who decide to pursue B corporation certification must take several steps.

The first is to complete an evaluation form that considers, among other factors, the company's governance and compensation structures and its environmental practices.

To pass this test, the business needs to score at least 80 out of 200 points and provide documentation to support their answers. There's also an annual fee of between $500 and $25,000, depending on the company's sales. Some businesses may need to amend their governing documents.

Exploring other corporate structures

Several states offer legal structures that may better fit some companies than benefit corporations do. California, for example, allows "flexible purpose corporations." With this entity, the business's articles of incorporation must include a statement that it will, in addition to engaging in business, engage in one or more charitable or public purpose activities, or promote a positive short- or long-term effect on employees, customers or the community.

Some states offer a low-profit limited liability company or L3C, which combines the financial purpose of an LLC with the mission of a nonprofit. In Vermont — the first state to allow this structure — L3Cs are organized to accomplish one or more educational or charitable purposes. Here, producing income is *not* a significant purpose of the organization. Serving the community is.

The benefits of being B

B corporations have the flexibility of aligning investors' personal beliefs and the company's goals in a concrete, accountable way. Going "B" can help both prospective customers and investors connect with firms whose goal is to get to the "triple bottom line" — that is, profit, people and the planet — as they operate.

Of course, many businesses, no matter their legal structure, already take into account the societal and environmental impact of their operations. But B corporations allow management to explicitly consider the company's impact on a wider variety of stakeholders. ◈

Business on the go: Mobile payments offer advantages

Lots of businesses shy away from accepting credit card payments, often because the fees are outside of their budgets or it just isn't practical. If your business is among them, the current growth in technology solutions that allow mobile devices to accept credit card payments may prompt you to reconsider.

The advantages

Businesses that use mobile devices to process credit card payments stand to gain several advantages over their cash- or check-only competitors. One is that simply offering these options can show customers you're on top of evolving technology and payment trends.

And by making it easier and quicker for consumers to spend money, it's likely that customers will spend more. You may capture more impulse purchases and be better equipped to handle spikes in customer traffic. Either can lead to a heftier bottom line.

What's more, the equipment needed to accept mobile payments is often less expensive than the point-of-sales terminals and magnetic strip readers traditionally used to process credit card payments. Similarly, ongoing fees charged by some providers of mobile payment solutions may be lower than the processing fees levied on traditional credit card transactions. The costs may be low enough that businesses that previously handled only cash may find they now can afford to accept credit cards.

The technology

The term "mobile payment" can refer to several kinds of technical solutions. Many mobile payment acceptance solutions include a credit card reader that attaches to a mobile device and an "app" or software to process the transactions.

Another option, near-field communication (NFC) technology, allows two devices to exchange information when they're close to each other. Customers who've stored credit card data in their smartphones, literally turning them into "digital wallets," can just wave their devices near a business's NFC reader to make a purchase.

As this technology continues to gain acceptance, however, security becomes a key concern. The PCI Security Standards Council (the group responsible for developing the standards to which businesses processing cardholder data must adhere) recommends that companies considering off-the-shelf mobile payment acceptance solutions look for providers that offer "validated" solutions. This means that cardholder data is encrypted *before* it enters the mobile device, reducing the risk that criminals could intercept the data.

The bottom line

To be sure, not all customers will be interested in mobile payments. But quite a few are: According to IT research firm Gartner, worldwide mobile payments are forecast to more than triple between 2012 and 2016, growing from $171.5 billion to $617 billion. ◈

THE RIGHT IDEAS

THE RIGHT RESULTS

ACHIEVED WITH THE RIGHT FIRM.

ARE YOU TOSSING RECORDS THAT MAY PROVE COSTLY DOWN THE ROAD?

An effective records retention program ensures that you keep what you need in order to remain accountable.

How long is long enough when it comes to retaining your business' important financial records? Can you differentiate between those documents that are essential forever, and those that are only essential for the near future, as indicated by the Internal Revenue Service? Visit zinnerco.com today to download our **NEW Record Retention Guide** with general guidelines about retention periods for various types of records. Don't take a wrong step that could prove quite costly in the end.

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