


**FINANCIAL PLANNING ASSOCIATION OF
SOUTHWESTERN OHIO /
DINSMORE & SHOHL LLP
ELECTION PREVIEW VIRTUAL CONFERENCE**

**2012/2013 INCOME, ESTATE AND GIFT TAX CHANGES
A RESULT OF THE “FISCAL CLIFF”**

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September 12, 2012

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- BRIEF SUMMARY OF SELECT UPCOMING CHANGES

INCOME TAX

- Section 179 Deduction for Equipment
 - Annual limit decreased from \$139,000 in 2012 to \$25,000 in 2013.
 - Phase-out starts at \$200,000 of placed-in-service equipment in 2013 vs. \$560,000 in 2012.

- 50% Bonus Depreciation expires (with exception through 2013 for longer-produced property).

- Phase-out of itemized deductions reinstated in 2013 (3% of AGI over threshold (est. \$174,450 in 2013) up to 80% of total deduction).

INCOME TAX

- ❑ Phase-out of personal exemptions reinstated in 2012 (by 2% for each \$2,500 that AGI exceeds threshold amounts (est. \$261,650)).
- ❑ Limit on contributions to Health Flexible Spending Arrangements reinstated in 2013 @ \$2,500 (inflation adjusted). No limit in 2012.
- ❑ AGI threshold for medical expense deduction increased for 7.5% of AGI in 2012 to 10% in 2013 (7.5% remains if age 65 or over).

INCOME TAX

- Collapsible corporation provisions (IRC §341) reinstated in 2013.
 - Essentially taxes sales of C corporation stock such as ordinary income (vs. capital gain) if corporation formed for the principal purpose of packaging ordinary income assets for sale.
- Employee FICA (“payroll”) tax rate increased from 4.2% to 6.2%.
- Other tax credits expire in 2013, including:
 - Qualified Cellulosic biofuel
 - Wind facilities
- \$250,000 home sale gain exclusion for qualified revocable trusts no longer applies in 2013.

SELECTIVE HEALTH REFORM ACT EMBEDDED TAXES

- ❑ In 2013 forward:
 - Additional tax of 0.9% on earned income over \$200,000/\$250,000 for single/joint taxpayers.
 - Additional tax of 3.8% on unearned income to the extent modified AGI exceeds \$200,000/\$250,000.

- ❑ In 2018 forward: 40% excise tax on health insurance premiums in excess of \$10,800/\$27,500 for individual/family coverage

INDIVIDUAL INCOME TAX RATE CHANGES

2012 Joint Tax Rates -- Ordinary

\$0 to \$17,400	10% of amount over \$0
\$17,400 to \$70,700	\$1,740 + 15% of amount over \$17,400
\$70,700 to \$142,700	\$9,735 + 25% of amount over \$70,700
\$142,700 to \$217,450	\$27,735 + 28% of amount over \$142,700
\$217,450 to \$388,350	\$48,665 + 33% of amount over \$217,450
Over \$388,350	\$105,062 + 35% of amount over \$388,350

EXPECTED 2013 TAX RATES

If taxable income

<u>Is over</u>	<u>But not over</u>	<u>The tax is: *</u>
\$0	\$58,900	15% of the amount over \$0
\$58,900	\$142,700	\$8,875 plus 28% of the amount over \$58,900
\$142,700	\$217,450	\$32,299 plus 31% of the amount over \$142,700
\$217,450	\$388,750	\$55,472 plus 36% of the amount over \$217,450
\$388,750	unlimited	\$116,996 plus 39.6% of the amount over \$388,350

* Plus 0.9% on earned income over \$200,000/\$250,000

Plus 3.8% on unearned income to extent AGI is over \$200,000/\$250,000

OTHER 2012/2013 INCOME TAX RATE CHANGES

□ Long-term Capital Gain

	<u>2012</u>	<u>2013</u>
	15%	20%
with 3.8% surtax	15%	23.8%

□ Qualified Dividends (Max. Rate)

	<u>2012</u>	<u>2013</u>
	15%	39.6%
with 3.8% surtax	15%	43.4%

SIMPLE EXAMPLE

- ❑ Married couple has the \$100k AGI, 4 exemptions & no deductions.
- ❑ What is their tax for each year?

	2012	2013
Taxable Income	\$84,800	\$84,800
Tax	\$13,260	\$16,127
Effective Average Tax Rate	15.64%	19.02%
Marginal Bracket	25%	28%

EXAMPLE WITH UNEARNED INCOME

- Married couple has the \$400k AGI (\$300k qualified dividends, \$100k ordinary income), 4 exemptions & no deductions.
- What is their tax for each year?

	<u>2012</u>	<u>2013</u>
Taxable Income	\$384,800	\$400,000
Tax	\$ 58,260	\$127,309
Effective Average Tax Rate	15.14%	33.08%
Marginal Bracket	35%	43.4%

TO NET \$1 AFTER FEDERAL INCOME TAXES

<u>Capital Gains</u>	<u>Max. Rate</u>	<u>Gross</u>	<u>Increase</u>
2012	15.0%	\$ 1.18	
2013 & later	23.8%	\$ 1.31	11%
<u>Qualified Dividends</u>	<u>Max. Rate</u>	<u>Gross</u>	<u>Increase</u>
2012	15.0%	\$ 1.18	
2013 & later	43.4%	\$ 1.77	50%

Some 2012 Year-End Income Tax Planning



WILL 2012 RATES BE EXTENDED

- If not
 - Trigger capital gains/buy back stocks if desired.
 - If capital loss carry-forwards would offset, no benefit.
 - Avoid taking capital losses until 2013.
 - Sell property on installment basis.
 - Have until as late as 10/15/13 to decide whether to report in 2012 or 2013.
 - Should expenditures be capitalized and not expensed.
 - Sections 59(e), 174, 263, 266
 - Consider avoiding tax free exchanges/rollovers in 2012.
 - Pay bonuses after March 15, 2013.
 - Employees may want to accelerate bonuses.
 - Avoid bonus depreciation/use slower depreciation.
 - Accelerate 15% C corporation dividends into 2012.

ESTATE/GIFT TAX

▣ ESTATE TAX RATE CHANGES

<u>Year</u>	<u>Estate Tax Exemption</u>	<u>Top Estate Tax</u>
2012	\$5,120,000	35%
2013 and beyond	\$1,000,000	55% (5% surtax over \$10 Million to phase out graduated rate)

ESTATE/GIFT TAX

- Federal Estate Tax Rate Schedule for 2013 and Beyond.

Taxable amount over	Taxable amount not over	Marginal tax rate (percent)
1,000,000	1,250,000	41
1,250,000	1,500,000	43
1,500,000	2,000,000	45
2,000,000	2,500,000	49
2,500,000	3,000,000	53
3,000,000	--	55
10,000,000	17,184,000	60

ESTATE/GIFT TAX

▣ GIFT TAX RATE CHANGES

- 35% tax rate in 2012.
- 41% to 60% tax rate in 2013 and beyond.

OTHER ESTATE/GIFT TAX CHANGES

- ❑ Reduction in generation skipping tax exclusion from \$5,000,000 to \$1,000,000 (certain additional changes relating to deemed and retroactive GST allocations).
- ❑ No spousal portability.
- ❑ IRC §6166 rules (installment payment of estate taxes for tax attributable to closely held business) tightened.

Some 2012 Year-End Estate/Gift Tax Planning



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- Utilize all or part of remaining \$5,000,000 per person gifting capacity.
 - Including GST “skip” transfer if desired.
 - With or without discount planning.
 - Spousal Trust, to retain access to gifted assets if needed.
 - “Binding” promise to make future gifts, to retain access to gifted assets.
 - Other possible 2013 changes:
 - Elimination of discount planning.
 - Elimination of “defective” grantor trust planning.
 - Elimination of GRATs under 10 years in length.
 - Limitation of Dynasty Trusts to 90 years.