

CHARITABLE BENEFITS OF THE AMERICAN TAXPAYER RELIEF ACT OF 2012

On January 1, 2013, both the Senate and House passed the American Taxpayer Relief Act of 2012 (ATRA). The bill resolved the “fiscal cliff” and includes a number of provisions that will be favorable for philanthropy and charitable giving.

IRA Charitable Rollover

Since 2006, IRA owners age 70½ and older have been able to make a qualified charitable distribution (QCD) up to \$100,000 each year. ATRA extends and expands this option for 2012 and 2013. There are three categories of potential donors.

First, some individuals in 2012 made QCDs directly from their IRA custodian to charities with the hope that the law would be retroactive. These QCDs are qualified retroactive to January 1, 2012. Second, individuals who did not make a QCD in 2012 can do so during January of 2013. This is similar to 2011, when it was possible to do a QCD for the prior year in January and a second QCD in the remaining 11 months of the year. If an individual has not made a QCD in 2012, this allows a generous person to make two \$100,000 QCDs in 2013.

Third, many individuals had hoped to do a QCD in 2012, but in December of 2012 received their IRA required minimum distribution (RMD). If these individuals transfer those funds to charity during January of 2013, they will not report the IRA distribution as income. Effectively, the December 2012 RMD is converted to a January QCD that qualifies for 2012.

Individual Income Tax Rates on Ordinary Income

The existing tax brackets of 10%, 15%, 25%, 28%, 33% and 35% will be extended. There is a new 39.6% bracket for married persons with \$450,000 of taxable income, heads of household with \$425,000 and single persons with \$400,000 of taxable income.

Long-Term Capital Gains

The capital gains rate of 0% for those in the 10% and 15% bracket and 15% for those in most higher brackets will be extended. However, individuals who are subject to the 39.6% tax bracket will have a 20% capital gain rate. In addition, because capital gains for those with incomes over \$250,000 married or \$200,000 single will be subject to the 3.8% Medicare tax, the capital gains rate for upper-income persons will be 23.8%.

Alternative Minimum Tax

The alternative minimum tax was initially intended to cover only high-income persons. However, with the increase in incomes, AMT continued to apply to larger and larger numbers of individuals. ATRA sets a permanent indexed AMT exemption amount. For 2012, the amounts will be \$78,750 for married couple and \$50,600 for single persons.

Gift and Estate Taxes

Marital portability and the \$5 million (with indexed increases) applicable exclusion amount for gift and estate taxes are made permanent. For 2013, the expected IRS ruling will set the applicable exclusion amount at \$5.25 million. The top rate for gift and estate taxes is 40%.

Itemized Deduction Limits

In prior years, there were limitations on itemized deductions that were called the “Pease” limits. The deductions over a floor are reduced by 3% of the adjusted gross income of the taxpayer. The maximum reduction for very-high-income persons is 80% of the itemized deductions.

ATRA creates new fixed limits for the 3% floor. Married couples will be subject to the reduced deductions for adjusted gross income (AGI) over \$300,000. Single persons will use a floor of \$250,000 of AGI.

Personal Exemption Limits

The personal exemption phase-out will be reinstated for married couples with AGI over \$300,000 and single persons with \$250,000 of AGI.

Various Deductions and Charitable Extenders

There are several other provisions that historically have been extended. There are expanded limits for gifts of conservation easements with a 50% deduction level and carry forwards for up to 15 years. In addition to the IRA Rollover, gifts of apparently wholesome food, property gifts by Subchapter S corporations and payments to controlled subsidiaries provisions are all extended until the end of 2013.

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