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Tax legislation brings clarity for 2013

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Many have been anxiously waiting to see what Congress would do with several of the tax laws which were set to expire at the end of 2012. One of the main concerns was expiring estate tax legislation. In 2012, the exemption amount was $5.12 million per estate with a 35 percent tax rate for estates over that amount. The law in 2012 also allowed the executor of a deceased spouse's estate to transfer any unused exemption to the surviving spouse, commonly referred to as portability. Without new legislation, the exemption amount would have reverted back to $1 million with a 55 percent tax rate for estates over that amount and no portability. With only hours remaining before expiration of the 2012 law, Congress passed legislation that permanently maintains the 2012 law, including portability, and indexes it for inflation. As a result, the exemption for 2013 will be roughly $5.25 million. The exemption can adjust upward to $15 million over time. One difference in the new legislation is that estates valued over the exemption amount will be taxed at a 40 percent rate instead of the 2012 rate of 35 percent. This new legislation will allow families a better opportunity to plan their estates.

At the end of 2012, what have been referred to as Bush-era tax cuts were scheduled to expire. The new law permanently extends the 10 percent, 15 percent, 25 percent, 28 percent and 33 percent tax rates for families with incomes below $450,000 and individuals with incomes below $400,000. For incomes above these levels, the new tax rate will be 39.6 percent rather than the maximum 2012 tax rate of 35 percent.

Another concern was the capital gain and dividend tax rates, and at what level of taxable income the new 3.8 percent Medicare surtax will apply. Through the end of 2012, the capital gain tax rate was zero for taxpayers whose taxable income was in the 10 and 15 percent tax bracket. For taxpayers whose taxable income was in the 25 percent tax bracket, the capital gain and dividend tax rates were 15 percent. The new law extends the current capital gain and dividend rates to individuals with taxable income below $400,000 and families with taxable income below $450,000 for taxable years beginning after Dec. 31, 2012. For taxpayers with taxable income above these levels, the rate for both capital gains and dividends will be 20 percent. The Medicare surtax of 3.8 percent on investment income will

also apply to individuals with adjusted gross income above $200,000 and families with adjusted gross income of $250,000. When applicable, the total capital gain tax rate could be 18.8 percent, 23.8 percent or as much as 25 percent, depending on both the adjusted gross income and taxable income for each taxpayer.

The Section 179 election to deduct the cost of depreciable assets rather than amortize them over a number of years has been very popular. In 2010 and 2011, the maximum amount that could be expensed was $500,000 with a dollar-for-dollar phase out of the deduction for expenditures on investments over $2 million. In 2012, the maximum amount was $139,000 with a phase out of $560,000. In 2013, the maximum amount was to be decreased to $25,000. However, the new legislation brought back the $500,000 level for both 2012 and 2013. In 2014, it is scheduled to drop back to the $25,000 level. In addition, the 50 percent first year bonus depreciation that was to expire at the end of 2012 was extended through the end of 2013.

These two sections of the law will provide taxpayers substantial flexibility in managing taxable income for one more year. There were additional provisions of the legislation that pertained to a permanent fix to the alternative minimum tax, built-in gains of conversions of S Corporations, and the phase out of itemized deductions and exemptions for high income earners, plus others. As more information comes to light, I will make it available. ■