



**Lally & Co.**  
CPAs and Business Advisors

# The EVERGREEN

Quarterly Journal for Clients & Friends

## Winter 2013 – Volume V

This Issue:

- **2012 American Taxpayer Relief Act**
- **Welcome Todd Sacco**

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### The Evergreen. Always Growing.

Why a leaf-bearing tree? For *The Evergreen* we've chosen the image of a live oak tree to represent the strength, stability, and resourcefulness of our clients. The name "live oak" comes from the fact that evergreen oaks remain green throughout the winter, when other oaks are dormant, leafless, and "dead"-looking. The live oak has been a living symbol of strength and durability for centuries. The southern live oak is the official state tree of Georgia.

At Lally & Co., we strive to offer solid solutions that ensure our clients' financial strength and protection. We are always looking for ways to better serve you.

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Contact our office or visit our website for more information.

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## Dear Clients and Friends,

With the holidays behind us and the tax side of the "fiscal cliff" averted, many clients are asking how the new 2012 American Taxpayer Relief Act will impact them.

We devote the majority of this edition to identifying the Bush-era tax cuts that were extended, new taxes for higher income individuals that are set to start in 2013, and how the American Taxpayer Relief Act might impact you.

As you read through *The Evergreen*, please do not hesitate to contact us at any time. We would be happy to hear from you and welcome the opportunity to provide clarity and simplification to complex tax and business issues. This and past issues of *The Evergreen* are available on our website at <http://lallycpas.com/newsletters/>.

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## 2012 American Taxpayer Relief Act

After weeks of proposals and counter-proposals and seemingly endless negotiations with down-to-the-wire drama, Congress has passed legislation to avert the tax side of the so-called "fiscal cliff." The American Taxpayer Relief Act permanently extends the Bush-era tax cuts for lower and moderate income taxpayers, permanently "patches" the alternative minimum tax (AMT), provides for a permanent 40 percent federal estate tax rate, renews many individual, business, and energy tax extenders, and more. It does not however extend the 2012 employee-side payroll tax holiday which expired at December 31, 2012.

The American Taxpayer Relief Act is intended to bring some certainty to the Tax Code. At the same time, it sets the stage for comprehensive tax reform,

possibly in 2013. Moreover, it creates important planning opportunities for taxpayers, which you may contact us to discuss in detail.

### Individuals

Unlike the two-year extension of the Bush-era tax cuts enacted in 2010, the debate in 2012 took place in a very different political and economic climate. Tax rates were scheduled to increase for all taxpayers at all income levels after 2012 if Congress did not act. President Obama made it clear that he would veto any bill that extended the Bush-era tax cuts for higher income individuals. The President's veto threat gained weight after his re-election. Both the White House and the GOP realized that going over the fiscal cliff would jeopardize the economic recovery, and the American Taxpayer Relief Act is, for the moment, their best compromise.

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## Important Dates:

**January 15, 2013** -  
2012 4<sup>th</sup> Quarter Estimated  
Payments Due

**February 28, 2013** -  
2012 Form 1099 Due

**March 15, 2013** - 2012 Corporate  
Tax Returns Due

**April 15, 2013** - 2012 Partnership,  
Individual, Trust, and Gift Tax  
Returns Due and 2013 1<sup>st</sup> Quarter  
Estimated Payments Due

**May 15, 2013** - 2012 Foundation  
Tax Returns Due

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## Firm Announcements:

**Justin Gartner** joined our Tax  
Department in January 2013 as a  
Staff Accountant

**Zachary Miles** transferred to the  
Tax Department in October 2012

**Todd Sacco** joined our Tax  
Department in November 2012 as  
a Tax Manager

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**Tax rates.** The American Taxpayer Relief Act permanently extends the Bush-era income tax rates for all taxpayers except for taxpayers with taxable income above certain thresholds: \$400,000 for single individuals, \$450,000 for married couples filing joint returns, and \$425,000 for heads of households. For 2013 and beyond, the federal income tax rates are 10, 15, 25, 28, 33, 35, and 39.6 percent. In comparison, the top rate before 2013 was 35 percent. The IRS is expected to issue revised income tax withholding tables to reflect the 2013 rates as quickly as possible and provide guidance to employers and self-employed individuals.

Additionally, the new law revives the Pease limitation on itemized deductions and personal exemption phase-out (PEP) after 2012 for higher income individuals but at revised thresholds. The new thresholds for being subject to both the Pease limitation and PEP after 2012 are \$300,000 for married couples and surviving spouses, \$275,000 for heads of households, \$250,000 for unmarried taxpayers; and \$150,000 for married couples filing separate returns.

**Capital gains.** The Bush-era capital gains and dividend tax rates are modified by the American Taxpayer Relief Act. Generally, the new law increases the top rate for qualified capital gains and dividends to 20 percent (the Bush-era top rate was 15 percent). The 20 percent rate will apply to the extent that a taxpayer's income exceeds the \$400,000/\$425,000/\$450,000 thresholds discussed above. The 15 percent Bush-era tax rate will continue to apply to all other taxpayers (in some cases zero percent for qualified taxpayers within the 15-percent-or-lower income tax bracket).

**Payroll tax cut.** Before 2013, the employee-share of Social Security taxes was reduced by two percentage points from 6.2 percent to 4.2 percent (with a similar tax break for self-employed individuals). For 2013, the two percent reduction is no longer available and the employee-share of Social Security taxes reverts to 6.2 percent. The employer-share of Social Security taxes remains at 6.2 percent. In 2012, the payroll tax holiday could save a taxpayer up to \$2,202 (taxpayers earning at or above the Social Security wage base of \$110,100 for 2012). As a result of the expiration of the payroll tax holiday, everyone who receives a paycheck or self-employment income will see an increase in taxes in 2013.

**AMT.** In recent years, Congress routinely "patched" the AMT to prevent its encroachment on middle income taxpayers. The American Taxpayer Relief Act permanently patches the AMT by giving taxpayers higher exemption amounts and other targeted relief. This relief is available beginning in 2012 and going forward. The permanent patch is expected to provide some certainty to planning for the AMT. No single factor automatically triggers AMT liability but some common factors are Schedule A Itemized Deductions of state and local income taxes, miscellaneous expenses, certain home equity loan interest; and changes in income from installment sales.

**Child tax credit and related incentives.** The popular \$1,000 child tax credit was scheduled to revert to \$500 per qualifying child after 2012. Additional enhancements to the child tax credit also were scheduled to expire after 2012. The American Taxpayer Relief Act makes permanent the \$1,000 child tax credit. Along with the child tax credit, the new law

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makes permanent the enhanced adoption credit and income exclusion, the enhanced child and dependent care credit, and the Bush-era credit for employer-provided child care facilities and services.

**Education incentives.** A number of popular education tax incentives are extended or made permanent by the American Taxpayer Relief Act. The American Opportunity Tax Credit (an enhanced version of the Hope education credit) is extended through 2017. Enhancements to Coverdell education savings accounts, such as the \$2,000 maximum contribution, are made permanent. The student loan interest deduction is made more attractive by the permanent suspension of its 60-month rules (which had been scheduled to return after 2012). The new law also extends permanently the exclusion from income and employment taxes of employer-provided education assistance up to \$5,250 and the exclusion from income for certain military scholarship programs. Additionally, the above-the-line higher education tuition deduction is extended through 2013 as is the teachers' classroom expense deduction.

**Charitable giving.** Congress has long used the tax laws to encourage charitable giving. The American Taxpayer Relief Act extends a popular charitable giving incentive through 2013: tax-free IRA distributions to charity by individuals age 70 1/2 and older up to maximum of \$100,000 for a qualified taxpayer per year. A special transition rule allows individuals to recharacterize distributions made in January 2013 as made on December 31, 2012. The new law also extends for businesses the enhanced deduction for charitable contributions of food inventory.

**Federal estate tax.** Few issues have complicated family wealth planning in recent years as has the federal estate

tax. Recent laws have changed the maximum estate tax rate multiple times. Most recently, the 2010 Taxpayer Relief Act set the maximum estate tax rate at 35 percent with an inflation-adjusted exclusion of \$5 million for estates of decedents dying before 2013. Effective January 1, 2013, the maximum federal estate tax will rise to 40 percent, but will continue to apply an inflation-adjusted exclusion of \$5 million. The new law also makes permanent portability between spouses and some Bush-era technical enhancements to the estate tax.

#### **Businesses**

The business tax incentives in the new law, while not receiving as much press as the individual tax provisions, are valuable. Two very popular incentives, bonus depreciation and small business expensing, are extended as are many business tax "extenders."

**Bonus depreciation/small business expensing.** The new law renews 50 percent bonus depreciation through 2013 (2014 in the case of certain longer period production property and transportation property). Code Sec. 179 small business expensing is also extended through 2013 with a generous \$500,000 expensing allowance and a \$2 million investment limit. Without the new law, the expensing allowance was scheduled to plummet to \$25,000 with a \$200,000 investment limit.

**Small business stock.** To encourage investment in small businesses, the tax laws in recent years have allowed noncorporate taxpayers to exclude a percentage of the gain realized from the sale or exchange of small business stock held for more than five years. The American Taxpayer Relief Act extends the 100 percent exclusion from the sale or exchange of small business stock through 2013.

**Tax extenders.** A host of business tax incentives are extended through 2013. These include:

- Research Tax Credit
- Work Opportunity Tax Credit
- New Markets Tax Credit
- Employer Wage Credit for Military Reservists
- Tax Incentives for Empowerment Zones
- Indian Employment Credit
- Railroad Track Maintenance Credit
- Subpart F Exceptions for Active Financing Income
- Look Through Rules for Related Controlled Foreign Corporation Payments

#### **Energy**

For individuals and businesses, the new law extends some energy tax incentives. The Code Sec. 25C, which rewards homeowners who make energy efficient improvements with a tax credit is extended through 2013. Businesses benefit from the extension of the Code Sec. 45 production tax credit for wind energy, credits for biofuels, credits for energy-efficient appliances, and many more.

#### **Looking ahead**

The negotiations and passage of the new law are likely a dress rehearsal for comprehensive tax reform during President Obama's second term. Both the President and the GOP have called for making the Tax Code more simple and fair for individuals and businesses. The many proposals for tax reform include consolidation of the current individual income tax brackets, repeal of the AMT, moving the U.S. from a worldwide to territorial system of taxation, and a reduction in the corporate tax rate. Congress and the Obama administration also must tackle sequestration, which the

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## Did you know?

- We are expanding our office space. When we moved to our current location in 2002, we had installed a high-density, mobile file system for client files. In 2007, we migrated to a paperless system and since 2009 had not used the seven-year old filing system. The room was gutted and new walls, carpeting, and office furniture will be installed. We expect this space to be ready February 15, 2013.
- You can find helpful financial tools on our website [www.lallycpas.com/financial-calculator/](http://www.lallycpas.com/financial-calculator/)
- This and past issues of *The Evergreen* are available on our website. [www.lallycpas.com/newsletter](http://www.lallycpas.com/newsletter)

American Taxpayer Relief Act delayed for two months. All this and more is expected to keep federal tax policy in the news in 2013. Our office will keep you posted of developments.

If you have any questions about the American Taxpayer Relief Act, please contact our office. We can schedule an appointment to discuss how the changes in the new law may be able to maximize your tax savings.

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## Welcome Todd Sacco



Please join us in extending a warm welcome to Todd Sacco.

Todd joined our firm in November, 2012. He has over 18 years of experience in tax planning and compliance for high-net worth individuals, family offices, public company executives, and private business owners. Todd spent the past 15 years working with two national accounting firms and prior to that he practiced law in a boutique law firm specializing in tax and estate planning.

Todd's areas of specialization include tax planning and tax compliance for high-net worth individuals and private businesses, estates and trusts, family office services, charitable organizations, and financial planning. Todd enjoys acting as a "personal CFO" to his clients.

Todd earned his bachelor's degree from Allegheny College in International Studies, his J.D. from the University Of Pittsburgh School Of Law, and his certificate in Accounting from Robert Morris University. He is a licensed attorney in Pennsylvania, a Certified Public Accountant in Pennsylvania, a Personal Financial Specialist, and a Certified Specialist in Estate Planning.

Todd is a member of the American Bar Association, the Pennsylvania Bar Association, the American Institute of Certified Public Accounts, the Pennsylvania Institute of Certified Public Accounts, the Allegheny Tax Society, the Estate Planning Council of Pittsburgh, and acts as trustee for the Mary & Alexander Laughlin Children's Center and Laughlin Memorial, Inc.

We are excited to announce that Todd has joined our firm and we are looking forward to working with him.

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