American Taxpayer Relief Act of 2012

Cross References

- H.R. 8, the *American Taxpayer Relief Act of 2012*
- *TheTaxBook,* 2012 Tax Year, *1040 Edition/Deluxe Edition,* pages 1-6 and 1-7.

For months, politicians negotiated to find a compromise to prevent the country from going over the so called fiscal cliff, which would mean automatic tax increases and spending cuts if a compromise was not reached by January 1, 2013. On December 31, 2012, the Senate came up with a compromise and voted 89-8 in favor of the bill. Less than 24 hours later, the House voted 257-167 in favor of the Senate bill. The President signed it into law on January 2, 2013. The new law temporarily prevents the U.S. economy from going over the fiscal cliff.

Repeal of Sunset Provisions

Perhaps the best news from the standpoint of the tax preparation industry is that the new law repeals the sunset provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, the Jobs and Growth Tax Relief Reconciliation Act of 2003, and the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010. The repeal of the sunset provisions means most of those tax law changes are now permanent. The new law also makes permanent certain provisions that historically always needed Congressional action every so many years to prevent unintended consequences. A big one is the permanent extension of the increased AMT exemption rates. Tax preparers will no longer be left hanging, wondering whether an AMT "patch" will be extended for the next tax season. However, there are many other tax provisions that are still temporary. The era of automatic tax law changes due to Congressional inaction over an expiring tax rule is not over yet.

Debt Limit [Section 3101(b), Title 31, US Code]

The fiscal cliff is primarily the result of the government spending more money than what it makes in tax revenues. Each year, the deficit requires the government to borrow more money. The national public debt limit was $16.4 trillion. According to news reports, the U.S. Treasury Department announced on Monday, December 31, 2012 that the government had reached its borrowing limit. Automatic tax increases and spending cuts were to take effect on January 1, 2013 if Congress did nothing.

Without new legislation, under the Budget Control Act of 2011, spending for defense, federal agencies, and cabinet departments would be reduced through broad, shallow cuts referred to as budget sequestration. Some major programs, such as Social Security, Medicaid, federal pay (including military pay and pensions), and veterans' benefits, would be exempt from the spending cuts. The Congressional Budget Office estimated that going over the fiscal cliff would likely lead to a mild recession in early 2013.

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New Law: The new law postpones the automatic spending cuts for two months and offsets the $24 billion cost of the delay with a mix of spending cuts and new revenues.

New Law: The new law eliminates most of the automatic tax increases for federal income tax purposes by extending most of the temporary tax provisions that were set to expire on December 31, 2012. Only the top 1% of taxpayers will see their income taxes increase under the new law. However, all W-2 employees and self-employed individuals will see their Social Security taxes increase for 2013 because the new law did not extend the temporary 2% rate reduction for 2013. The new law also does not change the tax increases under the 2010 health care reform act (3.8% Medicare tax on unearned income and the 0.9% Medicare tax on earned income) that goes into effect for high-income taxpayers beginning in 2013.

Example

Arthur and Sarah are married with two children. Their total income consists of $60,000 per year of employee W-2 income. They do not have enough to itemize deductions. Their taxes are calculated as follows:

	2012 Tax Year	*2013 Tax Year Under New Law*
W-2 Income	$60,000	$60,000
Exemptions	15,200	15,600
Standard Deduction	11,900	12,200
Taxable Income	32,900	32,200
Federal Income Tax	4,065	3,938
Child Tax Credit	2,000	2,000
Tax after Credits	2,065	1,938
Employee's FICA	3,390	4,590
Total Tax	$ 5,455	$ 6,528

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Example

Edward and Elizabeth are married with two children. Edward's W-2 income is $800,000 per year. Elizabeth does not have a paying job. They also earn $10,000 per year in qualified dividends in a brokerage account. Their itemized deductions are $60,000, all of which are deductions that are subject to the itemized deduction limitation rules under IRC section 68. Their taxes are calculated as follows:

	2012 Tax Year	*2013 Tax Year Under New Law*
W-2 Income	$ 800,000	$ 800,000
Dividends	10,000	10,000
Gross Income	810,000	810,000
Exemptions	15,200	0
Itemized Deductions	60,000	44,700
Taxable Income	734,800	765,300
Income Tax on W-2	222,820	246,745
Tax on Dividends	1,500	2,000
0.9% Medicare Tax	0	4,950
3.8% Medicare Tax	0	380
Employee's FICA	16,224	18,649
Total Tax	$ 240,544	$ 272,724

Unemployment Benefits

Federally funded unemployment benefit extensions were first enacted in 2008. The extended benefits kick in after an unemployed person has exhausted his or her 26 weeks of state unemployment benefits. Unless extended, about 2.1 million unemployed Americans were scheduled to lose federally funded unemployment compensation.

New Law: The new law extends unemployment benefits for one year without offsetting their impact on the deficit.

Tax Rate Schedules (IRC §1)

The 2001 tax act reduced tax rates gradually over several years. The tax rates for 2001 were the 15%, 27.5%, 30.5%, 35.5%, and 39.1% tax brackets. A 10% tax bracket was reflected in either an advanced rebate check issued directly to taxpayers, or a tax credit claimed on Form 1040. A special rule for dependents also applied.

- Tax rates for 2002 were the 10%, 15%, 27%, 30%, 35%, and 38.6% tax brackets.
- Tax rates for 2003 through 2012 were the 10%, 15%, 25%, 28%, 33%, and 35% tax brackets.

New Law: Effective for 2013, the new law permanently extends the 10%, 15%, 25%, 28%, and 33% tax brackets. The 35% tax bracket continues to apply, but stops at $400,000 for Single filers, $425,000 for Head of Household, $450,000 for Married Filing Jointly and Qualifying Widow(er), and $225,000 for Married Filing Separately. Taxpayers above these income thresholds are subject to the 39.6% tax bracket. Like all the other tax brackets, the 39.6% tax bracket threshold amounts will be adjusted each year for inflation.

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Based upon our inflation projections for tax year 2013, the unofficial tax rate schedules are as follows (if there are any changes when IRS releases the official tables, we will post an update at thetaxbook.com/update_service_news.asp).

2013 Federal Tax Rate Schedules

Taxable Income			×	Rate	minus	Amount	=	Tax
Single Taxable Income								
$ 0	to	8,925	×	10.0%	minus	$ 0.00	=	Tax
8,926	to	36,250	×	15.0%	minus	446.25	=	Tax
36,251	to	87,850	×	25.0%	minus	4,071.25	=	Tax
87,851	to	183,250	×	28.0%	minus	6,706.75	=	Tax
183,251	to	398,350	×	33.0%	minus	15,869.25	=	Tax
398,350	to	400,000	×	35.0%	minus	23,836.25	=	Tax
400,001	and over		×	39.6%	minus	42,236.25	=	Tax
MFJ or QW Taxable Income								
$ 0	to	17,850	×	10.0%	minus	$ 0.00	=	Tax
17,851	to	72,500	×	15.0%	minus	892.50	=	Tax
72,501	to	146,400	×	25.0%	minus	8,142.50	=	Tax
146,401	to	223,050	×	28.0%	minus	12,534.50	=	Tax
223,051	to	398,350	×	33.0%	minus	23,687.00	=	Tax
398,351	to	450,000	×	35.0%	minus	31,654.00	=	Tax
450,001	and over		×	39.6%	minus	52,354.00	=	Tax
MFS Taxable Income								
$ 0	to	8,925	×	10.0%	minus	$ 0.00	=	Tax
8,926	to	36,250	×	15.0%	minus	446.25	=	Tax
36,251	to	73,200	×	25.0%	minus	4,071.25	=	Tax
73,201	to	111,525	×	28.0%	minus	6,267.25	=	Tax
111,526	to	199,175	×	33.0%	minus	11,843.50	=	Tax
199,176	to	225,000	×	35.0%	minus	15,827.00	=	Tax
225,001	and over		×	39.6%	minus	26,177.00	=	Tax
HOH Taxable Income								
$ 0	to	12,750	×	10.0%	minus	$ 0.00	=	Tax
12,751	to	48,600	×	15.0%	minus	637.50	=	Tax
48,601	to	125,450	×	25.0%	minus	5,497.50	=	Tax
125,451	to	203,150	×	28.0%	minus	9,261.00	=	Tax
203,151	to	398,350	×	33.0%	minus	19,418.50	=	Tax
398,351	to	425,000	×	35.0%	minus	27,385.50	=	Tax
425,001	and over		×	39.6%	minus	46,935.50	=	Tax
Estates and Trusts Taxable Income								
$ 0	to	2,450	×	15.0%	minus	$ 0.00	=	Tax
2,451	to	5,700	×	25.0%	minus	245.00	=	Tax
5,701	to	8,750	×	28.0%	minus	416.00	=	Tax
8,751	to	11,950	×	33.0%	minus	853.50	=	Tax
11,951	and over		×	39.6%	minus	1,642.20	=	Tax

Note: The 10% and 35% tax brackets do not apply for estates and trusts filing Form 1041.

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Marriage penalty relief. The 2001 tax act also provided temporary relief from the marriage penalty. Under the marriage penalty, married couples with each spouse working generally paid more income tax than if they were single living in the same household earning the same income, due to the differences in the tax brackets for Single and Married Filing Jointly. The 2001 tax act partially solved this issue by increasing the 15% tax bracket for MFJ to 200% of the amount for single taxpayers. This applied for all tax years prior to 2013, (the year the provision sunsets).

New Law: The repeal of the sunset provision means the 15% tax bracket for MFJ is permanently set at 200% of the amount for single taxpayers.

Social Security Taxes (Public Law 112-96)

Prior to 2011, the Social Security portion of the FICA tax for employees was 6.2%. Effective for tax years 2011 and 2012, the Social Security portion of the FICA tax for employees was reduced to 4.2%. The employer's portion of the Social Security tax remained at 6.2%. The maximum earnings subject to the Social Security tax for 2012 was $110,100. Thus, the maximum employee's share of Social Security tax for 2012 was $4,624.20 ($110,100 × 4.2%). The Medicare portion of the FICA tax for employees was 1.45%, with no maximum earnings limit.

A similar provision applied for self-employment income in 2011 and 2012. The Social Security portion of the self-employment tax rate was reduced from 12.4% to 10.4%. The deduction for one-half of self-employment tax on Form 1040 was adjusted to reflect the rate reduction. The net result of the adjustment was that the deduction for one-half of self-employment tax was computed as if the rate had not been reduced for 2011 and 2012. Prior to 2011, the Social Security portion of the self-employment tax rate was 12.4%.

The maximum earnings subject to Social Security tax for 2013 are $113,700.

New Law: The new law did not extend the 2% rate reduction for 2013 and beyond. Thus, the Social Security portion of the FICA tax for employees goes back to 6.2%, and the Social Security portion of the self-employment tax rate goes back to 12.4% for 2013. The table below lists the applicable amounts per year.

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	2013	2012	2011	2010
Maximum earnings subject to:				
Social Security tax	$113,700	$110,100	$106,800	$106,800
Medicare tax	No limit	No limit	No limit	No limit
Maximum Social Security Tax:				
Employee	$7,049.40	$4,624.20	$4,485.60	$6,621.60
Self-employed	$14,098.80	$11,450.40	$11,107.20	$13,243.20
Maximum Medicare tax	No limit	No limit	No limit	No limit
Social Security Tax Rate:				
Employee	6.2%	4.2%	4.2%	6.2%
Self-employed	12.4%	10.4%	10.4%	12.4%
Medicare Tax Rate:				
Employee	1.45%	1.45%	1.45%	1.45%
Self-employed	2.9%	2.9%	2.9%	2.9%

Payroll Income Tax Withholding—Percentage Method (Notice 1036)

On January 3, 2013, the IRS released updated withholding tables under the percentage method so that employers could implement the 2013 withholding tables as adjusted for the new law as soon as possible.

Withholding allowance. The wage amounts shown in the percentage method tables for income tax withholding are net wages after the deduction for total withholding allowances. Use the following chart to determine the withholding allowance dollar amount to be deducted from wages each pay period.

Payroll Period:	*1 Withholding Allowance Equals:*
Weekly	$75.00
Biweekly	$150.00
Semimonthly	$162.50

Example

Judy is single and gets paid once every two weeks. She claims two withholding allowances on her W-4. Her gross pay is $800.00 per pay period. Her federal income tax withholding is calculated as follows:

Gross pay	$800.00
Minus withholding allowance ($150.00 × 2)	$300.00
Net pay for purposes of the withholding tables	$500.00
Withholding from percentage method tables below	$45.10

2013 Table 1(a) – Weekly Payroll Period – Single, Including Head of Household

Wage (After Subtracting Withholding Allowances):							Tax Withholding Amount		
$ 0	to	42	×	0.0%	minus	$	0.00	=	Tax
43	to	214	×	10.0%	minus		4.20	=	Tax
215	to	739	×	15.0%	minus		14.90	=	Tax
740	to	1,732	×	25.0%	minus		88.80	=	Tax
1,733	to	3,566	×	28.0%	minus		140.76	=	Tax
3,567	to	7,703	×	33.0%	minus		319.06	=	Tax
7,704	to	7,735	×	35.0%	minus		473.12	=	Tax
7,736	and over		×	39.6%	minus		828.93	=	Tax

2013 Table 1(b) – Weekly Payroll Period – Married Individuals

Wage (After Subtracting Withholding Allowances):							Tax Withholding Amount		
$ 0	to	160	×	0.0%	minus		0.00	=	Tax
161	to	503	×	10.0%	minus		16.00	=	Tax
504	to	1,554	×	15.0%	minus		41.15	=	Tax
1,555	to	2,975	×	25.0%	minus		196.55	=	Tax
2,976	to	4,449	×	28.0%	minus		285.80	=	Tax
4,450	to	7,820	×	33.0%	minus		508.25	=	Tax
7,821	to	8,813	×	35.0%	minus		664.65	=	Tax
8,814	and over		×	39.6%	minus		1,070.05	=	Tax

2013 Table 2(a) – Biweekly Payroll – Single, Including Head of Household

Wage (After Subtracting Withholding Allowances):							Tax Withholding Amount		
$ 0	to	85	×	0.0%	minus	$	0.00	=	Tax
86	to	428	×	10.0%	minus		8.50	=	Tax
429	to	1,479	×	15.0%	minus		29.90	=	Tax
1,480	to	3,463	×	25.0%	minus		177.80	=	Tax
3,464	to	7,133	×	28.0%	minus		281.69	=	Tax
7,134	to	15,406	×	33.0%	minus		638.34	=	Tax
15,407	to	15,469	×	35.0%	minus		946.46	=	Tax
15,470	and over		×	39.6%	minus		1,658.03	=	Tax

2013 Table 2(b) – Biweekly Payroll – Married Individuals

Wage (After Subtracting Withholding Allowances):							Tax Withholding Amount		
$ 0	to	319	×	0.0%	minus	$	0.00	=	Tax
320	to	1,006	×	10.0%	minus		31.90	=	Tax
1,007	to	3,108	×	15.0%	minus		82.20	=	Tax
3,109	to	5,950	×	25.0%	minus		393.00	=	Tax
5,951	to	8,898	×	28.0%	minus		571.50	=	Tax
8,899	to	15,640	×	33.0%	minus		1,016.40	=	Tax
15,641	to	17,627	×	35.0%	minus		1,329.20	=	Tax
17,628	and over		×	39.6%	minus		2,140.04	=	Tax

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2013 Table 3(a) – Semimonthly Payroll – Single, Including Head of Household

Wage (After Subtracting Withholding Allowances):							Tax Withholding Amount		
$ 0	to	92	×	0.0%	minus	$	0.00	=	Tax
93	to	464	×	10.0%	minus		9.20	=	Tax
465	to	1,602	×	15.0%	minus		32.40	=	Tax
1,603	to	3,752	×	25.0%	minus		192.60	=	Tax
3,753	to	7,727	×	28.0%	minus		305.16	=	Tax
7,728	to	16,690	×	33.0%	minus		691.51	=	Tax
16,691	to	16,758	×	35.0%	minus		1,025.31	=	Tax
16,759	and over		×	39.6%	minus		1,796.18	=	Tax

2013 Table 3(b) – Semimonthly Payroll – Married Individuals

Wage (After Subtracting Withholding Allowances):							Tax Withholding Amount		
$ 0	to	346	×	0.0%	minus	$	0.00	=	Tax
347	to	1,090	×	10.0%	minus		34.60	=	Tax
1,091	to	3,367	×	15.0%	minus		89.10	=	Tax
3,368	to	6,446	×	25.0%	minus		425.80	=	Tax
6,447	to	9,640	×	28.0%	minus		619.18	=	Tax
9,641	to	16,944	×	33.0%	minus		1,101.18	=	Tax
16,945	to	19,096	×	35.0%	minus		1,440.06	=	Tax
19,097	and over		×	39.6%	minus		2,318.48	=	Tax

Standard Deduction [IRC §63(c)]

For 2012, the standard deduction is as follows:

Single or MFS $5,950
MFJ or QW $11,900
HOH $8,700

Additional standard deduction for age 65 or older, or blind, per person, per event:

MFJ, QW, or MFS $1,150
Single or HOH $1,450

The standard deduction for dependents is the greater of $950 or earned income plus $300, up to the regular standard deduction.

Marriage penalty relief. The 2001 tax act temporarily increased the Married Filing Jointly standard deduction by 200% of the Single standard deduction. This provision was set to expire for tax years after 2012. Assuming the 200% provision for MFJ is extended, the projected standard deduction for 2013 is:

Single or MFS $6,100
MFJ or QW $12,200
HOH $8,950

Additional standard deduction for age 65 or older, or blind, per person, per event:

MFJ, QW, or MFS $1,200
Single or HOH $1,500

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If Congress did not extend the 200% provision for MFJ, the projected 2013 standard deduction for MFJ or QW would drop from $12,200 to $10,150.

New Law: The new law permanently extends the 200% provision for MFJ.

Personal Exemptions (IRC §151)

The personal exemption for 2012 is $3,800 per person. The personal exemption for 2013 is projected to be $3,900. The personal exemption is phased out for high-income taxpayers. In 2009, after being adjusted for inflation, the AGI phase-out ranges were:

MFJ and QW.................................$250,200 to $372,700
Single...$166,800 to $289,300
HOH...$208,500 to $331,000
MFS...$125,100 to $186,350

For tax years 2010 through 2012, the phaseout of the personal exemptions was eliminated.

New Law: The new law brings the personal exemption phaseout back for 2013, but increases the beginning phase-out amounts. The new 2013 AGI phase-out ranges are:

MFJ and QW.................................$300,000 to $422,500
Single...$250,000 to $372,500
HOH...$275,000 to $397,500
MFS...$150,000 to $211,250

These phase-out amounts are adjusted for inflation for tax years after 2013.

Itemized Deductions Limitation (IRC §68)

If a taxpayer's AGI is above a certain amount, itemized deductions allowed for the year are reduced by the lesser of:

- 3% of the excess of AGI over the applicable amount, or
- 80% of itemized deductions otherwise allowable for the year.

New Law: For tax year 2013, the applicable AGI phaseout amounts are $300,000 for MFJ, and QW, $275,000 for HOH, $250,000 for single, and $150,000 for MFS. These amounts are adjusted for inflation for tax years after 2013.

Note: For 2010 through 2012, the itemized deduction phaseout did not apply.

Long-Term Capital Gain and Qualified Dividend Tax Rates [IRC §1(h)]

Long-term capital gains are gains on capital assets held for more than one year. Qualified dividends are ordinary dividends from domestic C corporations that meet certain holding period rules and other requirements that qualify for long-term capital gain tax rates.

Under The Jobs and Growth Tax Relief Reconciliation Act of 2003, the maximum tax rates on long-term capital gains were reduced from 20% to 15% for gains realized after May 5, 2003. The maximum tax rates on qualified dividends were reduced from the top ordinary tax rate to 15% for tax years after 2002. These tax rate reductions were subject to a sunset provision so that the tax rates for 2013 would return to the tax rates that applied prior to 2003.

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New Law: The new law repeals the sunset provision in the 2003 tax act and adds a new 20% rate for taxpayers in the top 39.6% tax bracket (those above $400,000 Single, $425,000 HOH, $450,000 MFJ and QW, and $225,000 MFS, adjusted annually for inflation). Thus, for taxpayers below the top 39.6% tax bracket, the reduced tax rates on long-term capital gains and qualified dividends is permanently extended. The following chart illustrates the applicable tax rates under the new law.

Long-term capital gain maximum tax rates:

For taxpayers with ordinary tax rates of:	*Before 5/6/2003*	*After 5/5/2003 to 2007*	*2008 to 2012*	*2013 and after*
Top rate (39.6% after 2012)	18% or 20%	15%	15%	20%
25% to rate below top rate	18% or 20%	15%	15%	15%
10% or 15%	8% or 10%	5%	0%	0%

Note: The 8% and 18% rates prior to May 6, 2003 applied to qualified 5-year gain property.

Qualified dividend income tax rates:

For taxpayers with ordinary tax rates of:	*Before 1/1/2003*	*After 12/31/2002 to 2007*	*2008 to 2012*	*2013 and after*
Top rate (39.6% after 2012)	Ordinary rate	15%	15%	20%
25% to rate below top rate	Ordinary rate	15%	15%	15%
10% or 15%	Ordinary rate	5%	0%	0%

Special tax rates for certain gains. The 25% maximum tax rate on unrecaptured section 1250 gain, and the 28% maximum tax rate on gains from collectibles still apply. Those rates are permanently extended under the repeal of the 2003 tax act sunset provisions. Ordinary dividends that are not qualified dividends and short-term capital gains continue to be taxed at ordinary tax rates.

Child Tax Credit (IRC §24)

The 2001 tax act increased the Child Tax Credit from $500 to $1,000 per qualifying child. The $1,000 tax credit begins to phase out for taxpayers with modified AGI above:

- $110,000 Married Filing Jointly.
- $75,000 Single, Head of Household, or Qualifying Widow(er).
- $55,000 Married Filing Separately.

New Law: The new law repeals the sunset provision in the 2001 tax act. Thus, the Child Tax Credit is permanently set at $1,000 per qualifying child.

Additional Child Tax Credit. If any or all of the regular Child Tax Credit is disallowed because tax is reduced to zero before the entire credit can be used, the portion disallowed may qualify for the Additional Child Tax Credit. The Additional Child Tax Credit is a refundable tax credit.

For 2012, the maximum Additional Child Tax Credit for taxpayers with one or two children is the lesser of:

- The disallowed portion of the regular Child Tax Credit, or
- 15% of the taxpayer's earned income in excess of $3,000.

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For 2012, the maximum Additional Child Tax Credit for taxpayers with three or more children is the lesser of:
- The disallowed portion of the regular Child Tax Credit, or
- The larger of:
  1) 15% of earned income in excess of $3,000, or
  2) Social Security tax paid minus the Earned Income Credit.

New Law: Under sunset provisions, the Additional Child Tax Credit for taxpayers with one or two children did not apply for tax years after 2012. The new law repeals the sunset provision so that the Additional Child Tax Credit is permanent for taxpayers with one or two children.

New Law: The $3,000 amount was also temporary under prior law sunset provisions. Prior law increased it to $10,000 for tax years after 2012. The new law temporarily extends the $3,000 amount for five years through the end of 2017.

Child and Dependent Care Expenses (IRC §21)

Subject to certain rules and limitations, a taxpayer can:
- Exclude dependent care benefits received under an employer plan from income, or
- Claim a tax credit for child and dependent care expenses.

The tax credit for child and dependent care expenses ranges from 20% to 35% of the smallest of:
- $3,000 ($6,000 for two or more qualifying persons).
- Qualified expenses incurred and paid.
- The taxpayer's earned income.
- The spouse's earned income.

Expiring provisions. Under the sunset provisions of the 2001 tax act, beginning in 2013, the above $3,000 expense limit was scheduled to be reduced to $2,400 and the $6,000 expense limit was scheduled to be reduced to $4,800. Likewise, the 35% maximum credit was scheduled to be reduced to 30%.

New Law: The new law repeals the sunset provisions of the 2001 tax act. Thus, the $3,000 and $6,000 expense limits are permanent, and the 35% maximum credit is permanent.

Earned Income Credit (IRC §32)

The Earned Income Credit (EIC) is a refundable credit for low-income earners. The credit depends on the amount of income earned, AGI, investment income, and how many children (if any) live with the taxpayer. Earned income generally means taxable employee pay and net earnings from self-employment. A comparison is made between earned income and a taxpayer's AGI. When AGI reaches a certain level, the EIC may be phased out even though earned income may be otherwise relatively low. This calculation is meant to prevent low-wage earners with relatively large amounts of other income (pension, investments, etc.) from collecting EIC.

Prior to 2002, earned income for purposes of the EIC calculation included all income from employment even if it was not taxable, such as elective deferrals into a 401(k) plan.

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AGI was also modified to include certain nontaxable items. For example, there was an addback of 75% of net losses from Schedule C to AGI for purposes of the EIC calculation. Tax-exempt interest and nontaxable distributions from pensions were also added back to AGI for purposes of the EIC calculation. AMT also reduced EIC.

Beginning in 2002, earned income for purposes of calculating EIC only included taxable income. Nontaxable items, such as elective 401(k) contributions, no longer affected EIC. AGI was no longer modified, and EIC was no longer reduced by AMT. These provisions were set to expire for tax years beginning after 2012. ***New Law:*** The new law permanently extends these provisions.

Beginning in 2002, new rules also revised the relationship test and foster child residency requirements. The marriage penalty was also reduced by gradually increasing the phase-out range of EIC for married couples (by $3,000 beginning in 2008). These provisions were set to expire for tax years beginning after 2012. ***New Law:*** The new law permanently extends these provisions.

Beginning in 2009, the EIC was increased for people with three or more children. This provision was set to expire for tax years beginning after 2012. ***New Law:*** The new law extends this provision five years so that it applies for tax years beginning before 2018.

Beginning in 2009, the EIC beginning and ending phase-out range was increased from $3,000 to $5,000 for married couples filing jointly and was also adjusted for inflation beginning in 2010. The provision was set to expire for tax years beginning after 2012. ***New Law:*** The new law extends these provisions five years so that they apply for tax years beginning before 2018.

Alternative Minimum Tax (IRC §53 and §55)

Some of the more common tax situations that cause a taxpayer to pay more tax under AMT include:

- High gross income relative to taxable income.
- Large number of dependents.
- Exercise of incentive stock options.
- Long-term capital gains.
- Large itemized deductions for taxes and/or miscellaneous expenses.
- Certain tax-exempt interest.

AMT exemption amounts. The exemption amounts are designed to prevent low and middle income taxpayers from being subject to AMT. A taxpayer first has to have income above the exemption amounts before any of it is subject to AMT. However, the law does not have a built in index for inflation. Instead, Congress has had to pass "patches" that temporarily increase the exemption amounts to prevent more and more taxpayers from being subject to AMT. The following chart lists the AMT exemption amounts for prior years.

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Tax Year	Exemption for Married Filing Jointly	Exemption for Single and HOH
1986 – 1992	$40,000	$30,000
1993 – 2000	$45,000	$33,750
2001 – 2002	$49,000	$35,750
2003 – 2005	$58,000	$40,250
2006	$62,550	$42,500
2007	$66,250	$44,350
2008	$69,950	$46,200
2009	$70,950	$46,700
2010	$72,450	$47,450
2011	$74,450	$48,450

The AMT exemption amounts for tax year 2012 were scheduled to revert back to $45,000 for MFJ and $33,750 for Single and HOH, which equals the exemption levels from tax year 2000.

Author's Comment

According to an IRS letter written to Congress in November 2012, about 4 million taxpayers paid AMT for tax year 2011. If the AMT exemption amounts were allowed to go back to their tax year 2000 levels, 33 million taxpayers would pay AMT for tax year 2012.

New Law: The new law permanently extends the increased AMT exemption amounts. For 2012, the AMT exemption amount for Married Filing Jointly is $78,750, and the AMT exemption amount for Single and Head of Household is $50,600. Beginning in 2013, the exemption amount is automatically adjusted annually for inflation.

Tax credits and AMT [IRC §26(a)(2)]. In addition to the AMT patch for the exemption amounts, Congress has historically allowed a special tax credit ordering rule that applies to all taxpayers claiming nonrefundable personal tax credits, whether they owe AMT or not. The ordering rules change the order in which tax credits are applied against tax liability, and how they may be used to offset both the regular tax and the AMT.

The following tax credits were allowed to offset AMT through the end of 2011 [IRC §26(a)(2)]:
- §21 – Child and Dependent Care Expense Credit.
- §22 – Credit for the Elderly and the Permanently and Totally Disabled.
- §25 – Mortgage Interest Credit.
- §25A – Hope and Lifetime Learning Credit.
- §25C – Nonbusiness Energy Property Credit.
- §27 – Foreign Tax Credit.
- §30A – Puerto Rico Economic Activity Credit.
- §30C – Alternative Fuel Vehicle Refueling Property Credit.

The following tax credits were allowed to offset AMT through the end of 2012 [IRC §26(a)(1)]:
- §24 – Child Tax Credit.
- §25A(i) – American Opportunity Credit.
- §25B – Retirement Savings Contribution Credit.
- §25D – Residential Energy Efficient Property Credit.

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- §30 – Certain Plug-In Electric Vehicles.
- §30B – Alternative Motor Vehicle Credit.
- §30D – New Qualified Plug-In Electric Drive Motor Vehicle Credit.
- §36C – Adoption Expense Credit.

All the above nonrefundable credits allowed against AMT were scheduled to sunset.

New Law: The new law permanently extends the provision that allows all nonrefundable credits to offset AMT for all tax years after 2011.

Tax refund delays. If Congress had failed to extend the above AMT provisions, taken together, the changes to the AMT exemption amount and the special tax credit ordering rules would have affected as many as 100 million taxpayers for tax year 2012. This compares to 150 million total tax returns expected to be filed for tax year 2012.

The IRS assumed Congress would pass an AMT "patch" for 2012, as they have done in prior years. As a result, their computer systems currently in place are designed around this "patch." The IRS warned Congress in November 2012 that if Congress failed to enact an AMT patch by January 1, 2013, the IRS would be forced to make programming changes necessary to conform IRS processing systems to reflect expiration of the AMT patch and the credit ordering rules. At a minimum, close to 100 million taxpayers would have to be informed that they may not file their tax returns or receive a refund until the IRS completes the necessary system changes. Because of the magnitude and complexity of the changes, the IRS said it is entirely possible that these taxpayers would not be able to file until late March 2013, and possibly even later.

Refund delays are now avoided with Congress enacting permanent AMT relief under the new law.

AMT refundable credits. The adjustments and preferences that cause AMT are divided into two types:

- Deferral items that do not cause a permanent difference in taxable income over time. An example is the exercise of incentive stock options where gain is recognized on the exercise of the option under AMT rules, while it is delayed until the sale of the stock under regular tax rules. Once the stock is sold, the difference between AMT gain and regular tax gain is reconciled so that both produce the same taxable gain in the end. The only difference is the timing of that gain.
- Exclusion items that are never allowed under AMT and thus produce a permanent difference in taxable income. An example is the deduction for personal exemptions, which is allowed for regular tax purposes but not allowed under AMT rules.

To prevent the double taxation of deferral items, a credit is allowed against regular tax for prior year AMT. The credit is based on recalculated AMT from prior years based on deferral items only. The recalculated amount is then used to offset current regular tax, if any. If AMT applies in the carryforward year, no credit is allowed. Unused AMT credits are carried forward indefinitely until a year in which they can be used.

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If an individual has a long-term unused AMT tax credit for any year beginning prior to January 1, 2013, a portion of the AMT credit may be refundable [IRC §53(e)]. The calculation to determine how much of the credit may be refundable for the current year is done in Parts II and IV, Form 8801, *Credit for Prior Year Alternative Minimum Tax—Individuals, Estates, and Trusts.*

New Law: The new law does not contain any provision that extends the refundable portion of the AMT credit under IRC section 53(e) to tax years after 2012. Thus, the refundable portion of the AMT credit no longer applies beginning in 2013.

AMT and capital gains. Under IRC section 55(b)(3), the maximum rate of tax for AMT purposes on capital gains is limited to the regular tax rates that apply to capital gains.

New Law: The new law makes clear that the new 20% tax rate on long-term capital gains for taxpayers in the 39.6% tax bracket also applies for AMT purposes. Thus, the maximum rate of tax on long-term capital gains for AMT purposes for taxpayers in the 39.6% tax bracket is 20%.

Estate Tax (IRC §2001 and §2010)

Estate and gift tax rates. The estate and gift tax rate schedule for gifts made or decedents dying in 2010 through 2012 are as follows:

$ 0	to	10,000	×	18%	minus	$ 0.00	=	Tax
10,001	to	20,000	×	20%	minus	200.00	=	Tax
20,001	to	40,000	×	22%	minus	600.00	=	Tax
40,001	to	60,000	×	24%	minus	1,400.00	=	Tax
60,001	to	80,000	×	26%	minus	2,600.00	=	Tax
80,001	to	100,000	×	28%	minus	4,200.00	=	Tax
100,001	to	150,000	×	30%	minus	6,200.00	=	Tax
150,001	to	250,000	×	32%	minus	9,200.00	=	Tax
250,001	to	500,000	×	34%	minus	14,200.00	=	Tax
500,001	and over		×	35%	minus	19,200.00	=	Tax

Note: Executors of 2010 estates could opt out of estate tax by electing a modified carryover basis rule.

The estate and gift tax rate schedule for gifts made or decedents dying in 2001 are as follows:

$ 0	to	10,000	×	18%	minus	$ 0.00	=	Tax
10,001	to	20,000	×	20%	minus	200.00	=	Tax
20,001	to	40,000	×	22%	minus	600.00	=	Tax
40,001	to	60,000	×	24%	minus	1,400.00	=	Tax
60,001	to	80,000	×	26%	minus	2,600.00	=	Tax
80,001	to	100,000	×	28%	minus	4,200.00	=	Tax
100,001	to	150,000	×	30%	minus	6,200.00	=	Tax
150,001	to	250,000	×	32%	minus	9,200.00	=	Tax
250,001	to	500,000	×	34%	minus	14,200.00	=	Tax
500,001	to	750,000	×	37%	minus	29,200.00	=	Tax
750,001	to	1,000,000	×	39%	minus	44,200.00	=	Tax
1,000,001	to	1,250,000	×	41%	minus	64,200.00	=	Tax
1,250,001	to	1,500,000	×	43%	minus	89,200.00	=	Tax
1,500,001	to	2,000,000	×	45%	minus	119,200.00	=	Tax
2,000,001	to	2,500,000	×	49%	minus	199,200.00	=	Tax
2,500,001	to	3,000,000	×	53%	minus	299,200.00	=	Tax
3,000,001	to	10,000,000	×	55%	minus	359,200.00	=	Tax
10,000,001	to	17,184,000	×	60%	minus	859,200.00	=	Tax
17,184,001	and over		×	55%	minus	0.00	=	Tax

Note: The 60% tax rate for gifts and estates between $10 million and $17.184 million is designed to phase out the graduated tax rates so that everything over $17.184 million is taxed at a flat rate of 55%.

Under prior law sunset provisions, the estate and gift tax rates for 2013 were scheduled to return to the tax rates that applied in 2001.

New Law: The new law permanently sets the estate and gift tax rate schedule for gifts made or decedents dying after 2012 as follows:

$ 0	to	10,000	×	18.0%	minus	$ 0.00	=	Tax
10,001	to	20,000	×	20.0%	minus	200.00	=	Tax
20,001	to	40,000	×	22.0%	minus	600.00	=	Tax
40,001	to	60,000	×	24.0%	minus	1,400.00	=	Tax
60,001	to	80,000	×	26.0%	minus	2,600.00	=	Tax
80,001	to	100,000	×	28.0%	minus	4,200.00	=	Tax
100,001	to	150,000	×	30.0%	minus	6,200.00	=	Tax
150,001	to	250,000	×	32.0%	minus	9,200.00	=	Tax
250,001	to	500,000	×	34.0%	minus	14,200.00	=	Tax
500,001	to	750,000	×	37.0%	minus	29,200.00	=	Tax
750,001	to	1,000,000	×	39.0%	minus	44,200.00	=	Tax
1,000,000	and over		×	40.0%	minus	54,200.00	=	Tax

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Estate tax exclusion amounts. At death, all property of the decedent is included in the gross estate for estate tax purposes. The estate is allowed deductions for funeral expenses, administrative expenses, decedent's debts, and state death taxes. Most property passing to a surviving spouse or charity is also fully deductible. Estate tax is due if the net estate is more than the estate tax exclusion amount for the year of death. The estate receives a credit for any gift tax payable by the donor during his or her life.

Example

Henry died in 2012. On the date of his death, his house was worth $675,000, his cabin was worth $300,000, his bank accounts had $800,000 in them, he had a brokerage account worth $2.5 million, household and personal items were worth $60,000, his car was worth $2,000, and he had $500,000 in IRA rollover accounts. Henry's total gross estate equals $4,837,000. Henry was debt free when he died, and he had no taxable gifts from previous years. Since the estate tax exclusion amount for 2012 exceeds his gross estate, Henry's estate is not subject to the federal estate tax.

The chart below shows the estate exclusion amounts per year.

Year of Death	Estate Tax Exclusion Amount	Credit Against Tax
1987 – 1997	$600,000	$192,800
1998	$625,000	$202,050
1999	$650,000	$211,300
2000 – 2001	$675,000	$220,500
2002 – 2003	$1,000,000	$345,800
2004 – 2005	$1,500,000	$555,800
2006 – 2008	$2,000,000	$780,800
2009	$3,500,000	$1,455,800
2010 – 2011	$5,000,000	$1,730,800
2012	$5,120,000	$1,772,800

Note: Executors of 2010 estates could opt out of estate tax by electing a modified carryover basis rule.

Under the sunset provisions in prior tax law, the estate tax exclusion amount for 2013 was scheduled to go back to $1,000,000.

New Law: The $5,000,000 exclusion amount from the 2010 tax act is now permanent, adjusted annually for inflation. The 2013 inflation adjusted amount will be posted in a future update at thetaxbook.com/update_service_news.asp once released by IRS.

Unification. Prior to the 2001 tax act, the estate and gift tax rates and lifetime exclusion amounts were unified, creating a single graduated rate schedule and exclusion amount for both. The 2001 tax act decoupled these systems, creating separate tax rate schedules and exclusion amounts. The 2010 act reunified the estate and gift taxes for 2010 through 2012. Under the new law, estate and gift tax provisions are now permanently unified.

Portability election. For 2010 through 2012, executors can make a portability election to add any unused estate/gift tax exclusion of a predeceased spouse to the exclusion amount of the decedent.

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Example

Bob's wife, Jane, died in 2011 and only used $2 million of her $5 million exclusion amount. Jane's executor made the portability election when filing her estate tax return. Bob died in 2012. Bob's total estate tax exclusion amount equals $8,120,000 ($3 million unused amount from Jane, plus his $5,120,000 exclusion amount).

New Law: The portability election is now made permanent for all tax years after 2012.

Sales Tax Deduction [IRC §164(b)(5)]

For tax years beginning after 2003 and before 2012, taxpayers could elect to deduct either state and local sales taxes, or state and local income taxes as itemized deductions, but not both. If the taxpayer elected to deduct sales tax, the taxpayer could either add actual taxes paid on purchases from receipts, invoices, etc., or use the amount from the optional state sales tax tables. The optional state sales tax tables are based upon the taxpayer's home state, income, and the number of exemptions the taxpayer claims. An additional amount is added for any local sales taxes paid. The taxpayer can also add to the table amount sales taxes paid on motor vehicles, boats, homes, and materials used to build a home. Under prior law, this deduction expired for tax years after 2011.

New Law: The new law extends this deduction two years so that it applies for tax years 2012 and 2013. Unless extended again by Congress, the sales tax deduction will no longer apply for tax years after 2013.

Adoption Credit and Exclusion (IRC §23, §36C, and §137)

For 2012, a taxpayer can claim a credit for qualified expenses or for the adoption of a child with special needs, or claim an exclusion from income for employer-provided adoption benefits. The 2012 maximum credit or exclusion is $12,650. The benefits begin to phase out for taxpayers with AGIs above $189,710. Under the sunset provisions of the 2001 tax act, beginning in 2013, the Adoption Credit would only be available for children with special needs.

New Law: The new law repeals the sunset provision of the 2001 tax act. Thus, the Adoption Credit and exclusion is now permanent.

Refundable portion of Adoption Credit. Under the Patient Protection and Affordable Care Act of 2010, for tax years 2010 and 2011, the Adoption Credit was made refundable, meaning an individual could receive a refund of some or all adoption expenses paid, even if the individual did not otherwise have a federal income tax liability.

New Law: The new law did not extend the refundable credit provision in the 2010 act. Thus, the Adoption Credit is no longer refundable for tax years after 2011.

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Hope/American Opportunity Credit (IRC §25A)

In its original state, the Hope Credit was 100% of the first $1,000 of qualified education expenses and 50% of the next $1,000. The credit began to phase out when modified AGI was more than $80,000 for Married Filing Jointly and $40,000 for all others. The $1,000 amounts and the AGI phase-out amounts were adjusted each year for inflation.

None of the credit was refundable. The credit was available for the first two years of education at a college, university, vocational school, or other postsecondary educational institution eligible to participate in a student aid program administered by the U.S. Department of Education. Qualified education expenses included tuition and fees required for enrollment or attendance. The cost of books and supplies were generally not qualified education expenses unless paid to the school as a condition of enrollment or attendance.

After adjusting the credit for inflation, for tax year 2008, the Hope Credit was 100% of the first $1,200 of qualified education expenses and 50% of the next $1,200, for a total credit of $1,800. The credit began to phase out when modified AGI was more than $96,000 for Married Filing Jointly and $48,000 for all others.

Beginning in 2009, the Hope Credit was renamed the American Opportunity Credit and was increased to 100% of the first $2,000 of qualified education expenses and 25% of the next $2,000 of qualified expenses, for a total credit of $2,500. Part of the credit (40%) became a refundable credit for most taxpayers ($2,500 × 40% = $1,000 limit). The phase-out ranges were also increased. For 2009, the credit began to phase out when modified AGI was more than $160,000 for Married Filing Jointly and $80,000 for all others. The ability to claim the credit was also expanded to include the first four years of education. Course materials, including books and computers, needed for enrollment or attendance were also considered qualified expenses. The credit and AGI phaseouts were no longer adjusted annually for inflation.

The provisions enacted under the 2009 tax act were scheduled to sunset beginning in 2013. Thus, the American Opportunity Credit provisions would no longer apply, and the credit would revert back to the Hope Credit rules that were in place prior to 2009, adjusted for inflation.

New Law: The new law extends the American Opportunity Credit provisions five years, through tax year 2017. Unless extended again, the credit reverts back to the pre-2009 Hope Credit rules (adjusted for inflation), starting in tax year 2018.

Tuition and Fees Deduction (IRC §222)

The tuition and fees deduction allows taxpayers to deduct up to $4,000 of qualifying educational expenses as an above-the-line tax deduction (taxpayer does not have to itemize to claim the deduction). Qualifying expenses include tuition and required enrollment fees, course-related books, supplies, and equipment, if paid to the institution as a condition of enrollment. Qualifying education means undergraduate and graduate level courses at any college, university, vocational school, or other postsecondary educational institution eligible to participate in a student aid program administered by the U.S. Department of Education. The deduction is limited based on the following AGI limitations.

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- Deduct up to $4,000 of qualified tuition and fees paid if modified AGI is $65,000 or less ($130,000 or less MFJ)
- Deduct up to $2,000 of qualified tuition and fees paid if modified AGI is $80,000 or less ($160,000 or less MFJ)
- No deduction is allowed if modified AGI is over $80,000 ($160,000 or less MFJ)

Under prior law, the tuition and fees deduction would no longer apply for tax years after 2011.

New Law: The new law extends the tuition and fees deduction two years so that it applies for tax years 2012 and 2013. Unless extended by Congress again, the tuition and fees deduction is not allowed for tax years beginning after 2013.

Coverdell Education Savings Accounts (IRC §530)

Contributions to education savings accounts are not deductible. However, earnings accumulate tax free. If a distribution is used for qualified education expenses, the earnings included in the distribution are tax free.

The contribution limit is $2,000 per beneficiary per year. Under the sunset provisions of the 2001 tax act, this limit was scheduled to go back to $500 per beneficiary per year starting in 2013. ***New Law:*** The new law permanently extends the $2,000 per beneficiary per year limit.

Modified AGI phaseout. The education savings account contribution phase-out range is $95,000 to $110,000 ($190,000 to $220,000 for Married Filing Jointly). Under the sunset provisions of the 2001 tax act, the phase-out range for MFJ was scheduled to go back to $150,000 to $160,000 starting in 2013. ***New Law:*** The new law permanently sets the MFJ phase-out range at $190,000 to $220,000.

Qualified education expenses. Prior law had also expanded the definition of qualified education expenses to include K–12 school expenses (in addition to college, university, vocational school expenses, etc.). This provision was scheduled to expire for tax years after 2012. ***New Law:*** The new law permanently expands the definition to include K–12 school expenses.

Student Loan Interest Deduction (IRC §221)

The student loan interest deduction allows taxpayers to deduct up to $2,500 of interest paid on a qualifying education loan.

Prior to 2002, the student loan interest deduction was limited to the first 60 months in which interest payments were required. After the 60 months, interest was no longer deductible. The deduction was also subject to a phaseout when modified AGI was $40,000 to $55,000 for Single or Head of Household, and $60,000 to $75,000 for Married Filing Jointly.

Beginning in 2002, the 60-month limit was repealed, meaning interest was deductible for all years during the loan repayment period. The phase-out ranges were also increased so that the deduction was subject to a phaseout when modified AGI was $50,000 to $65,000 for Single or Head of Household, and $100,000 to $130,000 for Married Filing Jointly. An

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inflation adjustment factor was also added for tax years beginning after 2002. Thus, for the 2012 tax year, the deduction is subject to a phaseout when modified AGI is $60,000 to $75,000 for Single or Head of Household, and $125,000 to $155,000 for Married Filing Jointly.

Under the sunset provisions of the 2001 tax act, the 60-month limit and the 2001 tax year AGI phase-out ranges apply for tax year 2013.

New Law: The sunset provisions of the 2001 tax act are repealed. Thus, the 60-month limit no longer applies, and the higher AGI phase-out ranges adjusted for inflation are now permanent.

Educator Expenses [IRC §62(a)(2)(D)]

Eligible educators can deduct up to $250 (per spouse) of qualified out-of-pocket expenses paid during the year. Neither spouse can deduct more than $250 of his or her own qualified expenses. The deduction is taken above-the-line, meaning the taxpayer does not have to itemize deductions on Schedule A to claim the deduction, nor is it subject to the 2% AGI limitation that applies to other unreimbursed employee business expenses.

Eligible educators include K–12 teachers, instructors, counselors, principals, or aides in a school for at least 900 hours during a school year. Qualified expenses include books, supplies, equipment (including computer equipment and software), and other materials used in the classroom. Expenses in excess of $250 may be deductible on Schedule A as itemized miscellaneous job expenses, subject to the 2% AGI limitation, provided the expenses qualify as ordinary and necessary for the taxpayer's teaching activity, and the expenses are not reimbursed by the employer. Under prior law, the deduction would no longer be allowed for tax years after 2011.

New Law: The new law extends the deduction for tax years 2012 and 2013. Unless extended by Congress again, the deduction is no longer allowed for tax years after 2013.

Cancellation of Qualified Principal Residence Indebtedness Exclusion (IRC §108)

In general, the cancellation of debt may result in ordinary income, income from the sale of assets, or both. There are a number of exceptions to this rule, including cancellation of debt due to bankruptcy, insolvency, qualified farm indebtedness, qualified real property business indebtedness, and qualified principal residence indebtedness.

The exclusion for the cancellation of qualified principal residence indebtedness is limited to $2 million of acquisition debt. Acquisition debt has the same meaning as acquisition debt for purposes of the mortgage interest deduction rules except that the $1 million debt limit is increased to $2 million for purposes of the exclusion rule. This exclusion was scheduled to expire for tax years after 2012.

New Law: The new law extends this provision one year so that it applies for tax year 2013. Unless extended again by Congress, the provision expires for debt cancelled after 2013.

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Charitable Contributions of IRA Distributions [IRC §408(d)(8)]

Distributions from traditional IRAs are generally taxable. Contributions to charitable organizations are generally deductible as itemized deductions. If a taxpayer receives a distribution from an IRA, and then contributes the money to a qualified charity, the two transactions generally cancel each other out (distribution increases taxable income while the contribution decreases taxable income). However, since IRA distributions increase AGI, and charitable contribution deductions are subject to AGI limitations, it is possible that under certain circumstances, the two transactions would not fully cancel each other out.

Beginning in 2006, a new law allowed for an exclusion from gross income for otherwise taxable IRA distributions from a traditional or a Roth IRA if the money was directly transferred by the IRA trustee to a charitable organization. The exclusion was limited to $100,000 per taxpayer per taxable year. Any amount excluded from income under this rule was not deductible as a charitable contribution. Thus, the taxpayer did not count the distribution as taxable income and did not deduct the contribution as a charitable contribution.

Example

Andy has a traditional IRA with a balance of $100,000, consisting solely of deductible contributions and earnings. Andy has no other IRA. The entire IRA balance is directly transferred to his church, a qualified charitable organization. Prior to 2006, the entire distribution of $100,000 was includible in Andy's income (thus increasing his AGI), and the charitable contribution was deductible on Schedule A, subject to the applicable 50% AGI limitation on charitable contributions. Beginning in 2006, the entire distribution of $100,000 is a qualified charitable distribution. As a result, no amount is included in Andy's income, and it is not taken into account in determining the amount of Andy's charitable deduction for the year.

Extensions of provision. Originally, the exclusion from gross income for qualified charitable distributions applied for tax years 2006 and 2007. The Emergency Economic Stabilization Act of 2008 (Public Law 110-343) extended the provision through the end of tax year 2009. The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (H.R. 4853) extended the provision for tax years 2010 and 2011 (with it expiring after 2011). However, because this extension was signed into law on December 17, 2010, which only allowed for a few days left in the year to take advantage of the provision for the 2010 tax year, a special rule permitted taxpayers to elect to have qualified charitable distributions made in January 2011 treated as having been made on December 31, 2010. Thus, a qualified charitable distribution made in January 2011 was permitted to be (1) treated as made in the taxpayer's 2010 taxable year and thus permitted to count against the 2010 $100,000 limitation on the exclusion, and (2) treated as made in the 2010 calendar year and thus permitted to be used to satisfy the taxpayer's minimum distribution requirement for 2010.

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New Law: Once again, Congress retroactively extended this provision late in the year. A direct transfer from an IRA to a qualified charity is tax free for tax years 2012 and 2013 (with it expiring after 2013). Since the new law wasn't enacted until January 2, 2013, a special rule allows direct transfers made in January 2013 to be treated as if they were made on December 31, 2012. Thus, a qualified charitable distribution made in January 2013 is permitted to be (1) treated as made in the taxpayer's 2012 taxable year and thus count against the 2012 $100,000 limitation on the exclusion, and (2) treated as made in the 2012 calendar year and thus permitted to be used to satisfy the taxpayer's minimum distribution requirement for 2012.

The new law contains another special rule that allows a taxpayer who already took an IRA distribution in December 2012 to contribute that amount to a charity before February 1, 2013, and count it as an eligible charitable distribution to the extent it otherwise meets the requirements for an eligible charitable distribution. Thus, even though the transaction is not a direct transfer from the IRA to a qualified charity, it is still treated as if it were a direct transfer from the IRA to the charity.

Example

Roger is over age 70½ and takes a distribution each year to satisfy his required minimum distribution (RMD) each year. Normally, he does not need the money to live on so he usually contributes the money to his church and takes a charitable contribution deduction. Ever since 2006, he has been doing this by having the money directly transferred from his IRA to his church so that the IRA distribution is excluded from income and he doesn't need to offset it by claiming a charitable contribution deduction. Without contributing his IRA distribution to his church, his other deductions are too low to itemize so he loses some of the benefit when he has to count the distribution in income and then claim a charitable contribution deduction. Toward the end of December 2012, Roger realized that Congress was probably not going to pass extender legislation in time so he decided to take his RMD for 2012 by having the IRA distribution deposited into his checking account. A few days later before the end of 2012, Roger wrote out a check to his church in the same amount as a charitable contribution. Under the new law, since the IRA distribution was made after November 30, 2012, and before January 1, 2013, and Roger then contributed the money to his church after the date of distribution but before February 1, 2013, the distribution is excluded from income and the contribution is not deductible as a charitable contribution. This rule applies even though Roger did not choose at the time to have the money directly transferred to his church.

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Section 179 Deduction (IRC §179)

Deduction limits. Numerous tax provisions over the years temporarily increased the Section 179 deduction. The following lists the deductible amounts and the investment limitations per year, as reflected by the temporary increases and inflation adjustments:

Tax Year	Maximum Deduction	Investment Limit	SUV Limit
2011	$500,000	$2,000,000	$25,000
2010	$500,000	$2,000,000	$25,000
2009	$250,000	$800,000	$25,000
2008	$250,000	$800,000	$25,000
2007	$125,000	$500,000	$25,000
2006	$108,000	$430,000	$25,000
2005	$105,000	$420,000	$25,000
2004	$102,000	$410,000	$25,000/$102,000*
2003	$100,000	$400,000	$100,000
2002	$24,000	$200,000	$24,000
2001	$24,000	$200,000	$24,000
2000	$20,000	$200,000	$20,000

*SUVs were limited to $25,000 for all SUVs placed in service after October 22, 2004.

Prior Law: Under the expiration of the increased dollar limits, the dollar amounts for tax years after 2011 were scheduled to be as follows:

Tax Year	Maximum Deduction	Investment Limit	SUV Limit
2012	$139,000	$560,000	$25,000
2013	$25,000	$200,000	$25,000

New Law: The new law temporarily extends the increase in the Section 179 deduction two years, through the end of tax year 2013, so that the following dollar amounts apply.

Tax Year	Maximum Deduction	Investment Limit	SUV Limit
2012	$500,000	$2,000,000	$25,000
2013	$500,000	$2,000,000	$25,000
2014	$25,000	$200,000	$25,000

The new law also repeals the inflation adjustment provisions for the maximum deduction and investment limitation. It will require future Congressional action to adjust Section 179 dollar amounts for inflation.

Computer software. Prior to 2003, off-the-shelf computer software was subject to three-year straight line depreciation as intangible property. Beginning in 2003, the Jobs and Growth Tax Relief Reconciliation Act of 2003 made off-the-shelf computer software eligible for the Section 179 deduction. This provision was scheduled to expire for computer software placed in service after 2012.

New Law: Off-the-shelf computer software will continue to be eligible for the Section 179 deduction if it is placed in service prior to 2014.

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Special Depreciation Allowance [IRC §168(k)]

The special depreciation allowance was first introduced to assist taxpayers in recovering from the September 11, 2001, terrorist attacks. In its original state, the allowance was an additional depreciation deduction of 30% of the qualified property's depreciable basis and was generally claimed in the year the property was placed in service. The adjusted basis of the qualified property was then reduced by the allowance before figuring the regular depreciation deduction for the first tax year and all subsequent tax years. An ordering rule said any Section 179 deduction came first, then the special depreciation allowance, and then regular depreciation.

Example

Fred purchased a new machine and placed it in service on October 1, 2001. The purchase price was $100,000. The property was 7-year property. Fred elected the maximum Section 179 deduction and took the maximum special depreciation allowance for the year. Assume the machine qualified for the half-year convention under regular MACRS. Total depreciation claimed on the machine for 2001 was calculated as follows:

$100,000 minus $24,000 (max 179 deduction)	$76,000
$76,000 times 30% (special depreciation allowance)	$22,800
$76,000 minus $22,800	$53,200
$53,200 times 14.29% (½ year convention for 7-year property)	$7,602
$24,000 + $22,800 + $7,602	$54,402

Over the years, the special depreciation allowance was increased to 50%, and then to 100% of the qualified property's depreciable basis. Expiration dates came and went, with the deduction coming back in various forms, sometimes with special rules designed to help victims of various federally declared disasters.

Compared to Section 179. Unlike the Section 179 deduction, there was no maximum deduction limit for the special depreciation allowance. While the Section 179 deduction provided enough first-year depreciation for most small business needs, the special depreciation allowance was designed to encourage larger corporations to spend huge amounts of money on new assets. The Section 179 deduction also provided a benefit for purchasing used equipment, while the special depreciation allowance required the equipment be purchased new.

Current rules for qualifying property. Although there is no maximum acquisition and deduction limit for the special depreciation allowance, the rules do generally limit the deduction to the following types of new property (cannot be used property):

- MACRS property with a recovery period of 20 years or less.
- Water utility property.
- Off-the-shelf computer software that is not a section 197 intangible asset.
- Qualified leasehold improvement property.
- Certain transportation property, certain long production period property, certain reuse and recycling property, and certain federally declared disaster area property.

Current percentage and placed-in-service rules. Under current law, qualifying property acquired and placed in service during 2012 qualifies for the 50% special depreciation allowance. The 100% special depreciation allowance that applied for tax year 2011 expired, with the exception of certain long production period property and transportation property. Under prior law expiration provisions, the special depreciation allowance would not apply for 2013, with the exception of certain long production period property, transportation property, reuse and recycling property, and federally declared disaster area property.

New Law: The new law extends the 50% special depreciation allowance one year for qualifying property purchased and placed in service during 2013 (during 2014 for long production period property, transportation assets, etc.)

The new law also decouples the special depreciation allowance from allocation of contract costs under the percentage of completion accounting method rules for assets with a depreciable life of seven years or less that are placed in service in 2013. For regulated utilities, the new law clarifies that it is a violation of the normalization rules to assume a special depreciation allowance benefit for ratemaking purposes when a utility has elected not to take the special depreciation allowance.

Leasehold Improvements, Restaurant Property, and Qualified Retail Space Improvement Property [IRC §179(f) and §168(e)(3)(E)]

Section 179 deduction. Property eligible for the Section 179 deduction is generally tangible personal property. Real property is generally not eligible for the Section 179 deduction. For taxable years beginning in 2010 or 2011, property eligible for the Section 179 deduction includes up to $250,000 per year of the aggregate cost of qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property.

New Law: The new law extends this provision two years. For taxable years beginning in 2012 or 2013, up to $250,000 per year of the aggregate cost of qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property is eligible for the Section 179 deduction.

15-year recovery period. In general, real property and improvements to real property used in a trade or business is subject to a 39-year depreciation recovery period. An exception applies to qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property. If such property was placed in service before January 1, 2012, a 15-year recovery period applied.

New Law: The new law extends the 15-year recovery period for two years through the end of the 2013 tax year. Unless extended again by Congress, the recovery period for leasehold improvements, restaurant property, and qualified retail space improvement property will go back to 39 years for property placed in service after December 31, 2013.

Gains on Section 1202 Stock (IRC §1202 and §57)

Exclusion of gain. A taxpayer can elect to exclude the gain on the sale of qualified small business stock. The exclusion applies to stock held for more than five years. The exclusion is limited to 10 times the taxpayer's basis in the stock, or $10 million, whichever is greater ($5 million MFS).

For qualified small business stock acquired after September 21, 2010, and before January 1, 2012, a taxpayer can elect to exclude 100% of the gain. Under prior law, for stock acquired after December 31, 2011, 50% of the gain is eligible for exclusion under IRC section 1202.

New Law: The new law extends the 100% of gain exclusion for qualifying small business stock that is acquired before January 1, 2014 and held for more than five years. The new law also clarifies that for stock acquired after February 17, 2009, and before January 1, 2014, the date of acquisition for purposes of determining the percentage exclusion is the date the holding period for the stock begins.

Exclusion added back for AMT purposes. Of the 100% of gain excluded under the regular tax rules for stock acquired after September 21, 2010, zero percent of the gain is added back to income for AMT purposes.

New Law: The new law extends this provision for stock acquired before January 1, 2014, so that if the 100% of gain exclusion applies under the regular tax rules, zero percent of the gain is added back to income for AMT purposes.

Mortgage Insurance Premiums [IRC §163(h)(3)(E)]

Premiums paid for acquisition indebtedness for insurance contracts issued after December 31, 2006 on a first or second home are treated as deductible mortgage interest. The deduction begins to phase out when AGI exceeds $100,000 ($50,000 MFS). Qualified mortgage insurance providers include the Department of Veterans Affairs, the Federal Housing Administration, or the Rural Housing Service, and private mortgage insurance. Under prior law, this deduction was scheduled to expire for premiums paid or accrued after December 31, 2011.

New Law: The new law extends the deduction two years so that it applies for tax years 2012 and 2013. Unless extended again by Congress, the deduction expires for premiums paid or accrued after December 31, 2013.

Nonbusiness Energy Property Credit (IRC §25C)

The Nonbusiness Energy Property Credit was available for a taxpayer's principal residence or second home, and applied to energy efficient doors, windows, insulation, heat resistant roofs, furnaces, air conditioners, stoves, and water heaters. The credit only applied for existing homes and not new construction. The credit rate for windows, exterior doors, insulation, and other systems designed to reduce heat gain or loss was 10% of the materials costs, with a $200 credit amount limit on windows. Heat pumps, central air conditioners, water heaters, and stoves using biomass fuel to heat a residence had a credit limit of $300. Natural gas, propane, or oil furnaces and hot water boilers had a

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credit limit of $150. Qualified advanced main air-circulating fans had a credit limit of $50. The maximum credit for all nonbusiness energy property for 2011 was $500, reduced by the combined credit amount allowed for all prior tax years. The credit was scheduled to expire for property placed in service after December 31, 2011.

New Law: The new law extends for two years, through the end of 2013, the Nonbusiness Energy Property Credit. The new law also updates standards for property eligible for the credit to reflect improvements in energy efficiency. The new law also updates the energy efficiency requirements from the 2003 International Energy Conservation Code to the 2006 International Energy Conservation Code.

Educational Assistance Program (IRC §127)

The educational assistance program allows employers to provide up to $5,250 for educational assistance to employees tax free. Graduate level courses are included in this exclusion. Expenses include the cost of books, equipment, fees, supplies, and tuition. The education provided to the employee does not have to be job related, meaning the benefit is excluded from the employee's income even if the training helps the employee learn a new trade or business. There is an exception to the exclusion provision if the education involves sports, games, or hobbies, unless the education has a reasonable relationship to the employer's business or is required as part of a degree program. If employer provided benefits exceed $5,250, the cost of education may still be excludable if the education helps the employee perform his or her job, such as a working condition fringe benefit under IRC section 132.

Prior to 2001, this provision was temporary and only applied to undergraduate courses. The 2001 tax act made the provision permanent, subject to the sunset provisions of the 2001 tax act, and also expanded the provision for graduate level courses. The provision was scheduled to expire beginning in 2013.

New Law: The new law repeals the sunset provision of the 2001 tax act. Thus, the educational assistance program is now permanent, including the provision allowing for graduate level courses.

Accumulated Earnings Tax (IRC §531)

When a C corporation distributes its earnings to shareholders, the shareholders are subject to income tax on the dividends received. Since the corporation has already paid income tax on those earnings, the tax on dividends is considered to be double taxation of the same income (once at the corporation level and once at the shareholder level). This produces an incentive for closely held corporations to accumulate their earnings inside the corporation rather than distribute them to shareholders.

To counter this incentive, the law says a C corporation is not allowed to accumulate earnings beyond the amount needed for bona fide business reasons. A bona fide business reason to accumulate earnings is for possible future expansion of the business. If earnings accumulate beyond the reasonable needs of the business, and the purpose is determined to be tax avoidance, a penalty applies to the excess. For tax years prior to 2013, the penalty was 15% of the accumulated excess earnings.

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New Law: The new law increases the penalty to 20% of the accumulated excess earnings for tax years beginning after December 31, 2012.

Personal Holding Company Tax Rate (IRC §541)

If income of a C corporation is largely of an investment nature (interest, dividends, royalties, etc.), an additional personal holding company (PHC) tax applies. This tax is in addition to the regular corporate income tax. The personal holding company tax rate is 15% of the undistributed personal holding company income.

New Law: The new law increases the personal holding company tax rate to 20% of the undistributed personal holding company income.

S Corporation Built-In Gains Tax [IRC §1374(d)(7)]

If a corporation has always been an S corporation, the built-in gains tax does not apply. Built-in gains tax applies if:

- A C corporation elects S corporation status after 1986,
- The combined fair market value (FMV) of the corporation's property is greater than basis, and
- The property is sold or distributed within 10 years of the election to be taxed as an S corporation.

Built-in gains tax is 35% of the net recognized built-in gain, limited to taxable income computed as if the corporation were taxed as a C corporation. Net recognized built-in gains is the excess of gains over losses on property sold during the year that is subject to the tax. Accounts payable and accounts receivable are examples of built-in loss and built-in gain property for a cash basis taxpayer.

Example

Dr. Jekyll owns Hyde's Medical Clinic, Inc., a C corporation using the cash method of accounting. On December 31, 2011, Hyde's Medical Clinic had $85,000 of accounts receivable and $20,000 of accounts payable. Neither the accounts receivable nor the accounts payable are recognized for tax purposes in 2011. On January 1, 2012, Dr. Jekyll converts his C corporation into an S corporation. During the first three months of 2012, Hyde Medical Clinic collects all its accounts receivable and pays all its accounts payable that were outstanding on December 31, 2011. No other assets are sold during 2012. Hyde Medical Clinic must pay tax on $65,000 of built-in gains ($85,000 AR minus $20,000 AP). The tax equals $22,750 ($65,000 × 35%), limited by the tax that would apply for 2012 if the corporation was still a C corporation.

For sales or distributions of built-in gain property during tax years 2009 and 2010, the 10-year holding period was reduced to seven years. For tax year 2011, the holding period was reduced to five years. Under prior sunset provisions, the holding period was scheduled to increase back to 10 years for sales or distributions after 2011.

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New Law: The new law extends the five year holding period provision for sales occurring in 2012 and 2013. The new law also clarifies how installment sales are applied to this rule. If an S corporation sells an asset and reports the income from the sale using the installment method, the treatment of all payments received is subject to the built-in gains tax provisions applicable to the taxable year in which the sale was made.

S Corporation Charitable Contributions of Appreciated Property [IRC §1367(a)(2)]

In general, the amount of losses and deductions an S corporation shareholder can claim is limited to the shareholder's adjusted basis in stock and direct loans made by the shareholder to the corporation.

For tax years prior to 2012, this basis limitation did not apply to a charitable contribution of appreciated property to the extent the shareholder's pro-rata share of the contribution exceeded the shareholder's pro-rata share of the adjusted basis of the property contributed.

New Law: The new law extends this provision for two years through the end of 2013.

Conservation Contributions [IRC §170(b)(1)(E)]

A qualified conservation contribution is a contribution of a real property interest to a qualified organization exclusively for conservation purposes, such as the contribution of a conservation or historic preservation easement.

The contribution is generally limited to 50% of the taxpayer's AGI, minus all other charitable contributions. Prior to 2012, for certain farmers or ranchers, the deduction limit was increased to 100% of AGI. The deduction limit was scheduled to drop back to 50% of AGI for all taxpayers starting in 2012.

New Law: The new law extends the 100% of AGI limitation two years so that it applies for tax years 2012 and 2013. Unless extended again by Congress, the 50% of AGI limit applies for tax years after 2013.

Contribution of Computer Technology, Food Inventory, and Book Inventory [IRC §170(e)]

In general, a C corporation can deduct charitable contributions up to 10% of taxable income. The deductible amount for contributions of property is defined as fair market value (FMV) of the property reduced by the amount that would not be long-term capital gain (including ordinary income) if the property were sold at FMV. Thus, under this rule, the deductible amount is generally the corporation's adjusted basis in the property.

There is an exception for contributions of computer technology, food inventory, and book inventory to certain organizations. The amount deductible is reduced by only 50% (instead of 100%) of the amount that would have been ordinary income if sold at FMV. This special deduction is limited to twice the corporation's basis. This special exception was scheduled to expire for contributions made after December 31, 2011.

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Note: A similar provision for the contribution of certain inventory to a qualified organization solely for the care of the ill, the needy, or infants under IRC section 170(e)(3), and for scientific property used for research under IRC section 170(e)(4) is available for C corporations. These provisions do not have an expiration date.

Example

Blanket Corporation donates blanket inventory to a homeless shelter, a 501(c)(3) organization. Blanket's basis in the inventory is $450, and FMV is $1,600. If sold at FMV, the amount that would have been ordinary income is $1,150 ($1,600 minus $450). Reducing the deduction by 50% of the amount that would be ordinary income brings the amount to $1,025 [$1,600 minus ($1,150 × 50%)]. Since the deduction is limited to twice the corporation's cost in the property, the deductible amount is $900 ($450 × 2).

New Law: The new law extends this provision for the contribution of food inventory under IRC section 170(e)(3)(C) for two years through the end of tax year 2013. The new law did not extend the provision under IRC section 170(e)(3)(D) for book inventory or IRC section 170(e)(6) for computer technology.

Work Opportunity Credit (IRC §51)

A business can claim a Work Opportunity Credit equal to 40% of the first $6,000 of wages paid to new hires of one of eight targeted groups ($6,000 of wages × 40% = $2,400 maximum tax credit). These groups include members of families receiving benefits under the Temporary Assistance to Needy Families program, qualified ex-felons, designated community residents, vocational rehabilitation referrals, qualified summer youth employees, qualified food and nutrition recipients, qualified SSI recipients, and long-term family assistance recipients.

Returning heroes and wounded warriors Work Opportunity Credits. A business is also allowed to claim a Work Opportunity Credit for hiring qualified veterans in the following targeted groups and up to the following amount of wages paid.

- Veterans in a family receiving supplemental nutrition assistance:
  $6,000 of wages × 40% = $2,400 maximum credit.
- Short-term unemployed veterans:
  $6,000 of wages × 40% = $2,400 maximum credit.
- Service-related disabled veterans discharged from active duty within a year:
  $12,000 of wages × 40% = $4,800 maximum credit.
- Long-term unemployed veterans:
  $14,000 × 40% = $5,600 maximum credit.
- Long-term unemployed service-related disabled veterans:
  $24,000 × 40% = $9,600 maximum credit.

A credit against Social Security taxes is also available to tax-exempt employers. Under prior law, the Work Opportunity Credit was scheduled to expire for workers hired after 2012 for qualified veterans and 2011 for all other workers.

New Law: The new law extends the Work Opportunity Credit for all workers who begin work for the employer prior to 2014.

Plug-in Electric 2- and 3-Wheeled Vehicles [IRC §30D(g)]

Under prior law, the Electric Vehicle Credit for low-speed vehicles, motorcycles, and 3-wheeled vehicles under IRC section 30 expired for vehicles acquired after 2011. Likewise, the Electric Vehicle Conversion Kit Credit under IRC section 30B(i) expired for conversions made after December 31, 2011.

New Law: The new law reforms and extends for two years, through the end of 2013, the tax credit for highway-capable plug-in motorcycles and 3-wheeled vehicles. The new law replaces the 10% tax credit that expired at the end of 2011 for plug-in electric motorcycles, 3-wheeled vehicles and low-speed vehicles. Thus, the new law repeals the ability for golf carts and other low-speed vehicles to qualify for the credit.

The new credit amount is the lesser of 10% of the cost of the qualified 2- or 3-wheeled plug-in electric vehicle, or $2,500. A qualified 2- or 3-wheeled plug-in electric vehicle means any vehicle which:

- Has 2 or 3 wheels (cannot be 1, 4, or 18 wheels, etc.),
- The vehicle is purchased new (original use by taxpayer),
- The vehicle is acquired for use or lease by the taxpayer and not for resale,
- The vehicle must be made by a manufacturer (not a homemade vehicle),
- Gross vehicle weight must be less than 14,000 pounds,
- The vehicle must be propelled to a significant extent by an electric motor which draws electricity from a battery which (1) has a capacity of not less than 2.5 kilowatt hours, and (2) is capable of being recharged from an external source of electricity (such as being plugged into a home electrical outlet),
- The vehicle is manufactured primarily for use on public streets, roads, and highways (has to be street legal),
- The vehicle is capable of achieving a speed of 45 miles per hour or greater, and
- Is acquired after December 31, 2011 and before January 1, 2014.

Roth Conversions for Retirement Plans

Under current law, a deferral plan under section 401(k) (including the Thrift Savings Plan), 403(b) or 457(b) governmental plan can have Roth accounts that allow participants to save on a Roth basis. That is, they can make after-tax contributions to the plan and all the principal and earnings are tax free when distributed. Plans can currently allow participants to convert their pre-tax accounts to Roth accounts, but only with respect to money they have a right to take out of the plan, usually because they have reached age 59½ or separated from service. The new law allows any amount in a non-Roth account to be converted to a Roth account in the same plan, whether or not the amount is distributable. The amount converted would be subject to regular income tax under the Roth conversion rules.

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Disclosure of Certain Return Information to Certain Prison Officials [IRC §6103(k)(10)(A)]

The IRS may disclose to the head of the Federal Bureau of Prisons, and the head of any state agency charged with the responsibility for administration of prisons, any return information with respect to individuals incarcerated in federal or state prison whom the IRS has determined may have filed or facilitated the filing of a false return to the extent that the IRS determines that such disclosure is necessary to permit effective federal tax administration. Under prior law, this provision expired for disclosures made after December 31, 2011.

New Law: The new law makes this rule permanent. It also modifies and expands the rules to permit disclosure of the actual tax return, as well as tax return information, allow disclosure to prison officials directly, expand disclosure to include private contractors administering prisons, and provide disclosure to representatives of the prisoners.

Other Expiring Tax Provisions

- The alcohol used as fuel credit under IRC section 40 expired for tax years after 2011. The new law extended the credit two years through the end of 2013.
- The Alternative Fuel Credit under IRC section 6426(d) expired for tax years after 2011, except for the credit for liquefied hydrogen which expires on September 30, 2014. The new law extended the credit two years through the end of 2013.
- The Alternative Fuel Vehicle Refueling Property and Alternative Fuel Refueling Property Credit under IRC section 30C expired for tax years after 2011. The new law extends this credit two years through the end of 2013.
- The Biodiesel and Renewable Diesel Fuels Credit under IRC section 40A expired for tax years after 2011. The new law extends the credit two years through the end of 2013.
- The Credit for Employer-Provided Childcare Facilities and Services under IRC section 45F expired for tax years after 2012. The new law permanently extends this credit.
- The Credit for Increasing Research Activities under IRC section 41 expired for tax years after 2011. The new law extends the credit for tax years 2012 and 2013 and also makes several modifications to the credit.
- The suspension of the taxable income limitation for depletion of oil and natural gas produced from marginal properties under IRC section 613A expired for tax years after 2011. The new law did not extend this provision.
- Various federal tax incentives for the District of Columbia expired for tax years after 2011, such as the DC First-Time Homebuyer Credit under IRC section 1400C. The new law did not extend these provisions.
- The election to accelerate the AMT and research credits in lieu of the special depreciation allowance under IRC section 168(k)(4) expired for tax years after 2012 (2013 for certain long-lived and transportation property). The new law extends this election for one year through the end of 2013 (2014 for certain long-lived and transportation property).
- The election to deduct qualified environmental remediation expenditures under IRC section 198 expired for tax years after 2011. The new law did not extend this deduction.

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- The election to deduct qualified film and television production costs under IRC section 181 expired for tax years after 2011. The new law extends this provision two years through the end of 2013.
- The Employer Wage Credit for employees who are active duty members of the military under IRC section 45P expired for payments made after December 31, 2011. The new law extends this credit two years through the end of 2013.
- The Energy Efficient Appliance Credit under IRC section 45M expired for appliances manufactured after 2011. The new law extends this credit two years through the end of 2013.
- The New Energy Efficient Home Credit under IRC section 45L expired for new energy efficient homes acquired after December 31, 2011. The new law extends this credit two years through the end of 2013.
- Environmental cleanup costs must generally be capitalized. A provision in Public Law 111-312 allowed a taxpayer to deduct qualified environmental cleanup costs rather than capitalize the costs. This provision expired for tax years after 2011. The new law did not extend this provision.
- The FUTA surtax increase from 6.0% to 6.2% under IRC section 3301 expired for wages paid after June 30, 2011. The new law did not extend this provision.
- The Indian Employment Credit under IRC section 45A expired for taxable years beginning after December 31, 2011. The new law extends this credit two years for tax years 2012 and 2013.
- The provision that allowed accelerated depreciation recovery periods for Indian reservation property under IRC section 168(j) expired for property placed in service after December 31, 2011. The new law extends this provision two years for property placed in service through the end of 2013.
- The New Hire Retention Credit first enacted by Public Law 111-147 expired for tax years after 2011. The new law did not extend this credit.
- The New Markets Tax Credit under IRC section 45D expired for tax years after 2011. The new law extends this credit two years through the end of 2013.
- The provision under Notice 2007-22 that allowed for health flexible spending arrangements (FSAs) or health reimbursement arrangements (HRAs) to be directly transferred into a Health Savings Account (HSA) tax free expired for transfers after December 31, 2011. The new law did not extend this provision.
- The provision under IRC section 117(c) that allowed tax-free status to scholarships for the National Health Service Corps Scholarship Program and the Armed Forces Health Professions Scholarship and Financial Assistance program expired for tax years beginning after December 31, 2012. The new law permanently extends this provision.
- The provision under IRC section 132(f) that made excludable qualified transportation benefits equal as regards to commuter highway vehicles, transit passes, and qualified parking, expired for tax years after 2011. As a result, for tax year 2012, the exclusion amount limit for commuter highway vehicles and transit passes was scheduled to be $125, whereas the exclusion amount limit for qualified parking is $240. The new law extends this provision two years so that it applies for 2012 and 2013. Thus, the exclusion in 2012 for commuter highway vehicles and transit passes is now $240, the same as the amount for qualified parking.

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- The provision that increased the small-issuer arbitrage rebate exception for school construction bonds from $10 million to $15 million was made permanent under the new law.
- The new law permanently extends the allowance to issue tax-exempt private activity bonds for public school facilities.
- The 2001 tax act allowed an election in which Alaska Native settlement trusts could elect to pay tax at the same rate as the lowest individual marginal rate, rather than the higher rates that generally apply to trusts. The 2001 tax act provision was scheduled to expire after 2012. The new law repeals the sunset provision in the 2001 tax act and permanently extends this elective tax treatment.
- Under the 2009 tax act, components of the Earned Income Credit, Child Tax Credit, and any other refundable tax credit do not count as income in determining eligibility and benefits for certain government programs. Without this rule, a person otherwise eligible for a certain benefit due to the person's level of household income could become ineligible in the month that a tax refund is received. This provision was set to expire after December 31, 2012. The new law permanently extends this provision for any refundable credit received after December 31, 2012.
- The new law extends through the end of tax year 2013 certain modifications to the credit rate for calculating the Low-Income Housing Credit and the exclusion of the military's basic housing allowance for purposes of determining whether a low-income tenant is a qualified tenant for purposes of the Low-Income Housing Credit program.
- The new law extends the credit for certain expenditures for maintaining railroad tracks under IRC section 45G through the end of 2013.
- The new law extends the Mine Rescue Team Training Credit under IRC section 45N through the end of 2013.
- The new law extends for two years through the end of 2013 the qualified zone academy bonds program under IRC section 54E.
- The new law extends for two years through the end of 2013 the 7-year recovery period for motorsports entertainment complexes under IRC section 168(i)(15).
- The new law extends for two years through the end of 2013 the election to expense mine safety equipment under IRC section 179E.
- The new law extends for two years through the end of 2013 the deduction allowable with respect to income attributable to domestic production activities in Puerto Rico under IRC section 199(d).
- The new law extends for two years through the end of 2013 certain modifications to the tax treatment of certain payments to controlling exempt organizations under IRC section 512(d)(13).
- The new law extends for two years through the end of 2013 the treatment of certain dividends of regulated investment companies under IRC section 871(k).
- The new law extends for two years through the end of 2013 the inclusion of a RIC within the definition of a qualified investment entity under IRC section 897.
- The new law extends for two years through the end of 2013 an exception under Subpart F for active financing income under IRC section 953.

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- The new law extends for two years through the end of 2013 the look-through treatment of payments between related controlled foreign corporations under the foreign personal holding company rules. [IRC §954(c)]
- The new law extends for two years through the end of 2013 the designation of certain economically depressed census tracts as empowerment zones under IRC section 1391(d).
- The new law extends for two years through the end of 2013 certain tax incentives for the New York Liberty Zone under IRC section 1400L.

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