



A Business And Personal Fiscal Cliff

BY: BOB GOLDBERG

On January 3, 2013, President Obama signed into law H.R. 8, the "American Taxpayer Relief Act of 2012." Although the Act may have prevented the government from falling over a fiscal cliff it has clear implications and consequences to you and your business. The Act does make permanent some of the 2001 and 2003 tax cuts enacted during President George W. Bush's administration and temporarily extends other tax incentives from 2009, but its effects and those of other legislation will impact your finances immediately. The legislation will bring higher taxes on all aspects of individual income, including wages, capital gains, estates and lifetime gifts.

At the conclusion of 2012 there were an abundance of business sales. Resellers sitting on the sidelines trying to determine if the time was right to sell were helped in their decision by the prospect of increased taxes on capital gains. As has been discussed previously it is not always the price paid for your business, but the amount you receive after taxes that counts. Capital gains taxes were increased, but the increase does not apply to everyone. The tax rate for long-term capital gains and qualified dividends was increased to 20% for individuals with income over \$400,000.

The FICA payroll tax returns to 6.2% from the 4.2% rate in effect for 2012. This increase will be felt by every wage earner. It necessitates new payroll tables to calculate the proper deductions. The top income tax rate was reinstated at 39.6% for individuals with "taxable income" over \$400,000 and joint filers over \$450,000. Other than the FICA increase, these changes should not have a great impact on our RSPA members.

There are also a number of increases taking effect in 2013 from the previously enacted Patient Protection Affordable Care Act. A 3.8% Medicare Tax will apply the lesser of investment income or an excess of adjusted gross income over \$200,000 for singles and \$250,000 for joint filers. The Hospital Insurance Tax was increased to 2.35% on total wages in excess of \$200,000 for singles and \$250,000 for joint filers. In addition to these increases there have also been limitations on certain deductions for high earning taxpayers. There is also a phase-out of personal exemptions as one's adjusted gross income increases.



About Bob Goldberg

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Bob is a recognized authority in the area of trade regulation, antitrust, franchising, distribution channels, contract relations, and complex litigation. He advises several major corporations and numerous trade organizations including the Business Technology Association, Association of Independent Mailing Equipment Dealers, North American Retail Dealers Association and others. He has served as an Assistant Attorney General in the Antitrust Division as well as a staff attorney on the FTC.

There is good news and bad news in regard to estate taxes. There is a five million dollar estate tax exemption that will be adjusted for inflation. The bad news you will not be here to enjoy it, however your beneficiaries will not have to pay tax on the five million in inheritance. The new Act also allows continued deductions for state estate taxes in calculating the federal taxable estate.

These changes represent only the highlights. Elected officials complained of the complexity and difficulty in understanding the hundreds of pages contained in the legislation. What is clear is the need to reexamine your personal and business finances as well as your estate plan. The time to do so is now when adjustments can be made for the entire year to minimize the impact of increased taxes. If the sale of your business is in your plans, then capping the amount of your compensation is important. If your estate may exceed five million dollars then gifts and/or the creation of a trust may be appropriate. Charitable contributions provide an avenue to share your success with others and reduce taxes. Insurance policies can be used in financial planning to offset taxes and provide cash to beneficiaries for taxes that may be due on non-liquid assets.

We all work hard and seldom take time to plan for our future. Too many have passed without a will. More have faced retirement without a plan or a plan that was made at the age of 65. The new tax laws present a need and an opportunity to revisit your financial health. Do it for you and your family. C

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