



## **American Institute of CPAs' Fiscal Cliff Series:**

### **Long-Term Capital Gains and Qualified Dividends**

#### **DESCRIPTION**

Long-Term Capital Gains: The Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA) eliminated federal taxes on the profits earned on the sale of assets held for at least one year – known as long-term capital gains – for taxpayers in the 15 percent-and-below tax brackets. The rate for all other taxpayers was reduced from 20 percent to 15 percent. The Tax Relief Unemployment Insurance Reauthorization and Job Creation Act of 2010 (TRUIRCA) extended these changes through the end of 2012.

Qualified Dividends: The Jobs and Growth Tax Relief Reconciliation Act of 2003 changed the way qualified dividends were taxed by the federal government. Prior to JGTRRA, qualified dividends were taxed as ordinary income. That meant that taxpayers at the highest income levels were subject to a 39.6 percent tax rate before the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) was enacted and 35 percent afterwards. JGTRRA reduced this rate to a maximum of 15 percent.

#### **WHAT WILL HAPPEN IF WE GO OVER THE FISCAL CLIFF?**

Under existing law, on January 1, 2013, the long-term capital gains tax rates will return to the rates that existed before 2003, and, therefore, will increase from 15 percent to 20 percent.

Also under existing law, on January 1, 2013, the tax on qualified dividends will again be taxed as ordinary income. Because of other fiscal cliff-related changes, all rates on ordinary income will return to their pre-2001 levels. For example, the top rate will return to 39.6 percent. As a result, if the fiscal cliff occurs, the income tax rate on qualified dividends for some taxpayers will rise from 15 percent to 39.6 percent.

The combination of the changes to the tax on long-term capital gains and qualified dividends is projected to increase federal revenues by \$8 billion in 2013.\*

## **WHO WILL BE AFFECTED IF WE GO OVER THE FISCAL CLIFF?**

Taxpayers who receive qualified dividends or who sell property or securities on which they must pay a long-term capital gains tax could be affected by higher rates.

## **CAN THIS BE DEALT WITH AFTER JANUARY 1, 2013?**

Yes. Changes can be made retroactively, that is, after January 1.

## **AICPA COMMENT**

“The uncertainty about what tax rates will apply to long-term capital gains and qualified dividends prevents taxpayers from engaging in long-term tax and financial planning.”

~~Edward S. Karl, CPA, Vice President – Taxation, AICPA

## **AICPA RESOURCES**

“Navigating the Fiscal Cliff? AICPA Can Help”

<http://www.aicpa.org/InterestAreas/Tax/Resources/Pages/tax-fiscal-cliff.aspx>

\*Source for revenue estimate: Tax Policy Center, “Toppling Off the Fiscal Cliff: Whose Taxes Rise and How Much?” October 1, 2012.

<http://www.taxpolicycenter.org/UploadedPDF/412666-toppling-off-the-fiscal-cliff.pdf>

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