



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

### **Estate Tax**

#### **DESCRIPTION**

The Economic Growth and Tax Relief Act of 2001 (EGTRRA) phased out the federal estate tax. This was done in stages by increasing the estate tax exemption level – the threshold at which an estate would be subject to federal estate taxes – from \$675,000 to \$3.5 million, and reducing the top rate from 55 percent to 45 percent. The phase-out occurred between 2000 and 2009. The estate tax was eliminated completely in 2010, but reverted to the pre-2001 rules in 2011. In 2011, however, The Tax Relief Unemployment Insurance Reauthorization and Job Creation Act of 2010 (TRUIRCA) delayed the expiration of the changes put in place by EGTRRA and established a \$5.12 million exemption and a top rate of 35 percent through the end of 2012.

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

If Congress does not act by January 1, 2013, the exemption will fall from its current level of \$5.12 million to \$1 million and the top tax rate will rise to 55 percent from the current 35 percent. This is estimated to increase federal revenues by \$31 billion in 2013.\* However, Congress and the President could decide to do something other than simply extend the existing estate tax provisions and set the exemption and rate at a higher or lower level.

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

Estates and heirs and beneficiaries will be affected if we go over the fiscal cliff. Other taxpayers should review their estate plans to assure the lower estate tax exemption level and the changes to the rules (for example, the expiration of the “portability” rules) are taken into consideration.

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

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

## **AICPA COMMENT**

“Taxpayers need permanent estate tax rules so they can plan their affairs. When Congress acts on the estate tax, it should also be sure to reinstate the many technical changes, such as the “portability” rules, that were enacted over the last several years.”

~~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>

Estate Tax Page on AICPA Website:

<http://www.aicpa.org/ADVOCACY/TAX/TRUSTESTATEGIFT/Pages/default.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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