2012 Taxpayer Relief Act Protects Key Individual Tax Breaks-

Jan. 11, 2013

On Jan. 1, 2013, Congress passed the American Taxpayer Relief Act of 2012 (2012 Taxpayer Relief Act), which the President quickly signed into law on Jan. 2, 2013. The 2012 Taxpayer Relief Act will prevent many of the tax hikes that were scheduled to go into effect this year and retain many favorable tax breaks that were scheduled to expire, but will also increase income taxes for some high-income individuals and slightly increase transfer tax rates from 2012 levels. Further, it extends a host of expired and expiring tax breaks for businesses and individuals, and adds a number of new provisions as well.

This Special Study explains the key individual tax breaks, including a continuation of the Bush-era tax rates for most taxpayers and a permanent AMT “patch,” that are provided in the 2012 Taxpayer Relief Act. It also covers a number of personal credits and a new provision on Roth IRAs.

Elimination of EGTRRA Sunset

The provisions in the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA, P.L. 107-16), other than those made permanent or extended by subsequent legislation, were set to sunset and no longer apply to tax or limitation years beginning after 2010. (Sec. 901 of EGTRRA) However, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (the 2010 Tax Relief Act, P.L. 111-312) extended the EGTRRA provisions for two additional years.

Under pre-2012 Taxpayer Relief Act law (pre-Act law), beginning in 2013, the EGTRRA sunset (as extended) would have wiped out a host of favorable tax rules, such as: favorable income tax rate structure for individuals; marriage penalty relief; and liberal education-related deduction rules.

New law. The 2012 Taxpayer Relief Act eliminates the provision in EGTRRA that calls for its provisions to sunset. Accordingly, the provisions in EGTRRA, except as modified by other provisions in the new law, are made permanent and no longer automatically sunset in future years. (Sec. 901 of EGTRRA, as amended by Act Sec. 101(a)(1))

Estates & Trusts' Income Tax Rates Modified

For 2012, the income tax rates that applied to estates and trusts were 15%, 25%, 28%, 33%, and 35%. Under pre-Act law, the rates were scheduled to rise to 15%, 28%, 31%, 36%, and 39.6% for tax years beginning after Dec. 31, 2012.

New law. The 2012 Tax Relief Act provides that beginning after 2012, trusts' and estates' income is taxed at a 15%, 25%, 28%, 33%, and 39.6% marginal tax rate. However, the Act provides that in applying that statutory rate schedule a 25% rate is substituted for the 28% rate; a 28% rate is substituted for the 31% rate; and a 33% rate is substituted for the 36% rate. (Code Sec. 1(i)(2), as amended by Act Sec.101(b)(1))

Observation: The 2012 Taxpayer Relief Act otherwise makes no change to the lowest (15%) or highest (39.6%) trusts' and estates' income tax rates under the statutory rate schedule.

Reduced Individual Tax Rates Except for Higher-Income Taxpayers

Under EGTRRA, the income tax rates for individuals were 10%, 15%, 25%, 28%, 33% and 35% for tax years beginning in 2010. In addition, the size of the 15% tax bracket for joint filers and qualified surviving spouses was 200% of the 15% tax bracket for individual filers (in the so-called marriage penalty relief). The 2010 Tax Relief Act extended the lower tax rate schedules for individuals so that they remained at 10%, 15%, 25%, 28%, 33% and 35% for two additional years, through 2012. In addition, the size of the 15% tax bracket for joint filers and qualified surviving spouses remained at 200% of the 15% tax bracket for individual filers through 2012.

Under pre-Act law, for tax years beginning after Dec. 31, 2012, the rates were scheduled to rise to 15%, 28%, 31%, 36% and 39.6%; and the 15% tax bracket for joint filers and qualified surviving spouses was scheduled to drop to 167% of the 15% tax bracket for individual filers.

New law. For tax years beginning after 2012, the 2012 Taxpayer Relief Act provides that the income tax rates for most individuals will stay at 10%, 15%, 25%, 28%, 33% and 35% (instead of moving to 15%, 28%, 31%, 36% and 39.6% as would have occurred under the EGTRRA sunset). However, a 39.6% rate will apply to taxable income above a certain threshold (specifically, taxable income in excess of the “applicable threshold” over the dollar amount at which the 35% bracket begins). The applicable threshold is $450,000 for joint filers and surviving spouses; $425,000 for heads of household; $400,000 for single filers; and $225,000 (one-half of the otherwise applicable amount for joint filers) for married taxpayers filing separately. These dollar amounts are inflation-adjusted for tax years after 2013. (Code Sec. 1(i)(2) and Code Sec. 1(i)(3), as amended by Act Sec. 101(b)(1))

In addition, with the elimination of the EGTRRA sunset, the size of the 15% tax bracket for joint filers and qualified surviving spouses remains at 200% of the 15% tax bracket for individual filers. (Code Sec. 1(i)(1))

Thus, for 2013 the individual income tax brackets are (JCX-2-13):

2013 RATE SCHEDULES

FOR SINGLE INDIVIDUALS
(OTHER THAN HEADS OF HOUSEHOLDS AND SURVIVING SPOUSES)

If taxable income is:	The tax would be:
Not over $8,925	10% of taxable income
Over $8,925 but not over $36,250	$892.50 plus 15% of the excess over $8,925
Over $36,250 but not over $87,850	$4,991.25 plus 25% of the excess over $36,250
Over $87,850 but not over $183,250	$17,891.25 plus 28% of the excess over $87,850
Over $183,250 but not over $398,350	$44,603.25 plus 33% of the excess over $183,250
Over $398,350 but not over $400,000	$115,586.25 plus 35% of the excess over $398,350
Over $400,000	$116,163.75 plus 39.6% of the excess over $400,000

FOR HEADS OF HOUSEHOLDS

If taxable income is:	The tax would be:
Not over $12,750	10% of taxable income
Over $12,750 but not over $48,600	$1,275.00 plus 15% of the excess over $12,750
Over $48,600 but not over $125,450	$6,652.50 plus 25% of the excess over $48,600
Over $125,450 but not over $203,150	$25,865.00 plus 28% of the excess over $125,450
Over $203,150 but not over $398,350	$47,621.00 plus 33% of the excess over $203,150
Over $398,350 but not over $425,000	$112,037.00 plus 35% of the excess over $398,350
Over $425,000	$121,364.50 plus 39.6% of the excess over $425,000

FOR MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES

If taxable income is:	The tax would be:
Not over $17,850	10% of taxable income
Over $17,850 but not over $72,500	$1,785.00 plus 15% of the excess over $17,850
Over $72,500 but not over $146,400	$9,982.50 plus 25% of the excess over $72,500
Over $146,400 but not over $223,050	$28,457.50 plus 28% of the excess over $146,400
Over $223,050 but not over $398,350	$49,919.50 plus 33% of the excess over $223,050
Over $398,350 but not over $450,000	$107,768.50 plus 35% of the excess over $398,350
Over $450,000	$125,846.00 plus 39.6% of the excess over $450,000

FOR MARRIEDS FILING SEPARATE RETURNS

If taxable income is:	The tax would be:
Not over $8,925	10% of taxable income
Over $8,925 but not over $36,250	$892.50 plus 15% of the excess over $8,925
Over $36,250 but not over $73,200	$4,991.25 plus 25% of the excess over $36,250
Over $73,200 but not over $111,525	$14,228.75 plus 28% of the excess over $73,200
Over $111,525 but not over $199,175	$24,959.75 plus 33% of the excess over $111,525
Over $199,175 but not over $225,000	$53,884.25 plus 35% of the excess over $199,175
Over $225,000	$62,923.00 plus 39.6% of the excess over $225,000

Reduced Capital Gains & Qualified Dividends Rate Except for Higher-Income Taxpayers

Under Sec. 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA, P.L. 108-27), as modified by Sec. 102 of P.L. 109-222, favorable tax treatment was provided for long-term capital gain and qualified dividends. However, JGTRRA provided that this treatment ended after 2010.

Capital gain. For tax years beginning in 2010, under JGTRRA, for both regular tax and alternative minimum tax (AMT) purposes, the maximum rate of tax on the adjusted net capital gain of an individual was 15%. If the adjusted net capital gain would otherwise be taxed at a rate below 25% if it were ordinary income, it was taxed at a 0% rate. That part of net capital gain attributable to unrecaptured Code Sec. 1250 gain (i.e., gain attributable to real estate depreciation) was taxed at a maximum rate of 25%. Net capital gain attributable to collectibles gain and section 1202 gain is taxed at a maximum rate of 28%. The 2010 Tax Relief Act provided that net capital gain was to be taxed at a maximum rate of 0/15% for two additional years, through 2012.

Under pre-Act law, for tax years beginning after Dec. 31, 2012, the maximum rate of tax on an individual's adjusted net capital gain was to be 20%. Any adjusted net capital gain which otherwise would be taxed at the 15% rate was to be taxed at a 10% rate. In addition, any gain from the sale or exchange of property held more than five years that would otherwise have been taxed at the 10% capital gain rate would be taxed at an 8% rate. Any gain from the sale or exchange of property acquired after 2000 and held for more than five years, that would otherwise have been taxed at a 20% rate, was to be taxed at an 18% rate. Net capital gain attributable to unrecaptured section 1250 gain was to continue to be taxed a maximum rate of 25%. Net capital gain attributable to collectibles gain and section 1202 gain was to continue to be taxed at a maximum rate of 28%.

Qualified dividend income. For tax years beginning in 2010, under JGTRRA, for both the regular tax and AMT purposes, an individual's qualified dividend income was taxed at the same rates that apply to net capital gain. Thus, an individual's qualified dividend income was taxed at a 15% or (for qualified dividend income which otherwise would be taxed at a 10% or 15% rate if the special rates did not apply) at a zero rate. The amount of a taxpayer's unrecaptured Code Sec. 1250 gain taxed at a maximum 25% rate was limited to the taxpayer's net capital gain determined without regard to the taxpayer's qualified dividend income. (In addition, a taxpayer had to hold stock for at least 61 days during the 121-day period beginning 60 days before the ex-dividend date in order for dividends on the stock to qualify as qualified dividend income.) The 2010 Tax Relief Act extended for two years, through 2012, the rules excluding qualified dividend income from net capital gain in computing unrecaptured Code Sec. 1250 gain and the holding period rule for determining when dividends on stock qualify as qualified dividend income.

Under pre-Act law, for tax years beginning after Dec. 31, 2012, dividends received by an individual were to be taxed at ordinary income tax rates. The rules excluding qualified dividend income from net capital gain in computing unrecaptured Code Sec. 1250 gain taxed at a 25% rate, and the holding period rule for determining when dividends on stock qualify as qualified dividend income, were to expire for tax years beginning after Dec. 31, 2012.

New law. For tax years beginning after 2012, the 2012 Taxpayer Relief Act eliminates the provision in JGTRRA that calls for its provisions to sunset. Accordingly the provisions in JGTRRA, except as modified by other provisions in the new law, are made permanent and no longer automatically sunset in future years. (Sec. 303 of JGTRRA, as amended by Act Sec. 102(a))

For tax years beginning after 2012, the 2012 Taxpayer Relief Act provides that the top rate for capital gains and dividends will permanently rise to 20% (up from 15%) for taxpayers with taxable incomes exceeding $450,000 for joint filers and surviving spouses; $425,000 for heads of household; $400,000 for single filers; and $225,000 for married taxpayers filing separately. (Code Sec. 1(h)(1), as amended by Act Sec. 102(b))

Observation: When accounting for Code Sec. 1411's 3.8% surtax on investment-type income and gains for tax years beginning after 2012, the overall rate for higher-income taxpayers will be 23.8%.

For taxpayers whose ordinary income is generally taxed at a rate below 25%, capital gains and dividends will permanently be subject to a 0% rate. (Code Sec. 1(h)(1)(B), as amended by Act Sec. 102(c)(2)) Taxpayers who are subject to a 25%-or-greater rate on ordinary income, but whose taxable income levels fall below the applicable threshold—$450,000 for joint filers and surviving spouses; $425,000 for heads of household; $400,000 for single filers; and $225,000 for married taxpayers filing separately—will continue to be subject to a 15% rate on capital gains and dividends.

Observation: The rate will be 18.8% for those subject to Code Sec. 1411's 3.8% surtax (i.e, those with modified adjusted gross income (MAGI) over $250,000 for joint filers or surviving spouses, $125,000 for a married individual filing a separate return, and $200,000 in any other case).

Phase-Out of Personal Exemptions for Higher-Income Taxpayers

Personal exemptions generally are allowed for the taxpayer, his or her spouse, and any dependents. For tax years beginning in 2010, under EGTRRA, there was no overall reduction in the personal exemption amount based on the taxpayer's AGI. For tax years beginning after Dec. 31, 2010, the total amount of exemptions that could be claimed by a taxpayer was to be reduced (personal exemption phaseout (PEP)) by 2% for each $2,500 (or portion thereof) by which the taxpayer's AGI exceeds the applicable threshold. The phase-out rate was to be 2% for each $1,250 for married taxpayers filing separate returns. However, the 2010 Tax Relief Act provided that a higher-income taxpayer's personal exemptions weren't phased out for two additional years (for 2011 and 2012) when AGI exceeds an inflation-adjusted threshold.

New law. For tax years beginning after 2012, PEP, which had previously been suspended, is reinstated with a starting threshold of $300,000 for joint filers and a surviving spouse; $275,000 for heads of household; $250,000 for single filers; and $150,000 (one-half of the otherwise applicable amount for joint filers) for married taxpayers filing separately. Under the phaseout, the total amount of exemptions that can be claimed by a taxpayer subject to the limitation is reduced by 2% for each $2,500 (or portion thereof) by which the taxpayer's AGI exceeds the applicable threshold. These dollar amounts are inflation-adjusted for tax years after 2013. (Code Sec. 151(d), as amended by Act Sec. 101(b)(2))

3%/80% Limitation on Itemized Deductions for Higher-Income Taxpayers

In lieu of taking the standard deduction, a taxpayer may take itemized deductions (generally those deductions which aren't allowed in computing adjusted gross income (AGI)). For tax years beginning in 2010, there was no overall limitation on itemized deductions based on the taxpayer's AGI, although separate limitations (floors) might apply to the particular deduction. For tax years beginning after Dec. 31, 2010, the total amount of itemized deductions was to be reduced (the “Pease limitation”) by 3% of the amount by which the taxpayer's AGI exceeds a threshold amount, with the reduction not to exceed 80% of the otherwise allowable itemized deductions. However, the 2010 Tax Relief Act provided that the itemized deductions of higher-income taxpayers are not reduced for two additional years, through 2012.

New law. For tax years beginning after 2012, the 2012 Taxpayer Relief Act provides that the “Pease“ limitation on itemized deductions, which had previously been suspended, is reinstated with a starting threshold of $300,000 for joint filers and a surviving spouse, $275,000 for heads of household, $250,000 for single filers, and $150,000 (one-half of the otherwise applicable amount for joint filers) for married taxpayers filing separately. Thus, for taxpayers subject to the “Pease” limitation, the total amount of their itemized deductions is reduced by 3% of the amount by which the taxpayer's AGI exceeds the threshold amount, with the reduction not to exceed 80% of the otherwise allowable itemized deductions. These dollar amounts are inflation-adjusted for tax years after 2013. (Code Sec. 68(b), as amended by Act Sec. 101(b)(2))

Standard Deduction Marriage Penalty Relief Made Permanent

For tax years beginning in 2012, the basic standard deduction for a married couple filing a joint return was twice the basic standard deduction for an unmarried individual filing a single return. Under pre-Act law, for tax years beginning after Dec. 31, 2012, the standard deduction for married taxpayers filing jointly (and qualified surviving spouses) was scheduled to be 167% of the standard deduction for single taxpayers. This would create a marriage penalty, i.e., a situation where the combined tax liability of a married couple filing a joint return is greater than the sum of the tax liabilities of each individual computed as if they weren't married. .

New law. The 2012 Taxpayer Relief Act permanently extends the standard deduction marriage penalty relief that otherwise would have expired at the end of 2012. The basic standard deduction for a married couple filing a joint return continues to be twice the basic standard deduction for an unmarried individual filing a single return. And, the basic standard deduction for marrieds filing separately equals the basic standard deduction for single filers. (Act Sec. 101(a))

JCX-2-13R provides that the 2013 basic standard deduction amounts are:

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Joint return or                      $12,200 (up from
surviving spouse                        $11,900 for 2012)
Single (other than                   $6,100 (up from
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head of household                        $5,950 for 2012)
or surviving spouse)
Head of household                     $8,950 (up from
                                         $8,700 for 2012)
Married filing                        $6,100 (up from
separate returns                         $5,950 for 2012)
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AMT Exemption Permanently Increased With Indexing

The alternative minimum tax (AMT) is the excess, if any, of the tentative minimum tax for the year over the regular tax for the year. In arriving at the tentative minimum tax, an individual begins with taxable income, modifies it with various adjustments and preferences, and then subtracts an exemption amount (which phases out at higher income levels). The result is alternative minimum taxable income (AMTI), which is subject to an AMT rate of 26% or 28%.

Under pre-Act law, the AMT exemption amounts for tax years beginning after 2011 were: $33,750 for unmarried individuals; $45,000 for married couples filing jointly and surviving spouses; and $22,500 for married individuals filing separately.

New law. Retroactively effective for tax years beginning after 2011, the Act permanently increases the AMT exemption amounts. As a result, the AMT exemption amounts for tax years beginning after 2011 are as follows:

- Married individuals filing jointly and surviving spouses: $78,750, less 25% of AMTI exceeding $150,000 (zero exemption when AMTI is $465,000);
- Unmarried individuals: $50,600, less 25% of AMTI exceeding $112,500 (zero exemption when AMTI is $314,900); and
- Married individuals filing separately: $39,375, less 25% of AMTI exceeding $75,000 (zero exemption when AMTI is $232,500). But AMTI is increased by the lesser of $39,375 or 25% of the excess of AMTI (without the exemption reduction) over $232,500. (Code Sec. 55(d), as amended by Act Sec. 104)

In addition, for tax years beginning after 2012, the 2012 Taxpayer Relief Act indexes these exemption amounts for inflation. (Code Sec. 55(d), as amended by Act Sec. 104) For 2013, the AMT exemption amounts are (JCX-2-13R):

- Married individuals filing jointly and surviving spouses: $80,800, less 25% of AMTI exceeding $153,900 (zero exemption when AMTI is $477,100);
- Unmarried individuals: $51,900, less 25% of AMTI exceeding $115,400 (zero exemption when AMTI is $323,000);

- Married individuals filing separately: $40,400, less 25% of AMTI exceeding $76,950 (zero exemption when AMTI is $238,550). But AMTI is increased by the lesser of $40,400 or 25% of the excess of AMTI (without the exemption reduction) over $238,550.

AMT exemption of a child subject to the kiddie tax. For tax years beginning after 2011, for a child subject to the kiddie tax (i.e., certain children with unearned income over $1,900 for 2012, $2,000 for 2013), the AMT exemption amount can't exceed the sum of the child's earned income plus an annually adjusted amount ($6,950 for 2012, $7,150 for 2013). In addition, the kiddie tax AMT exemption can't be more than the child's regular AMT exemption (i.e., the unmarried individual's exemption amount, see above). Thus, for example, under the 2012 Taxpayer Relief Act, a child subject to the kiddie tax is entitled to a maximum AMT exemption for 2013 of $50,600, but only if he has earned income of $43,450 ($7,150 + $43,450 = $50,600) or more before taking the phaseout for unmarried individuals into account.

Personal Nonrefundable Credits May Offset AMT and Regular Tax for All Tax Years

Nonrefundable personal credits—other than the adoption credit, the child credit, the savers' credit, the residential energy efficient property credit, the non-depreciable property portions of the alternative motor vehicle credit, the qualified plug-in electric vehicle credit, and the new qualified plug-in electric drive motor vehicle credit—were to be allowed for 2012 only to the extent that the individual's regular income tax liability exceeded his tentative minimum tax, determined without regard to the minimum tax foreign tax credit.

Observation: Thus, under pre-Act law, many nonrefundable personal credits couldn't offset AMT. The AMT could also indirectly limit a taxpayer's nonrefundable personal tax credits even in situations where the taxpayer wasn't liable for the AMT.

New law. Retroactively effective for tax years beginning after 2011, the Act permanently allows an individual to offset his entire regular tax liability and AMT liability by the nonrefundable personal credits. (Code Sec. 26(a), as amended by Act Sec. 104(c))

Observation: The rule allowing nonrefundable personal credits to reduce the AMT (as well as regular tax) benefits middle income individuals who: (a) have low taxable income (and thus a low regular tax), e.g., because of a large number of personal exemptions; (b) are subject to the AMT because personal exemptions (as well as the standard deduction and certain itemized deductions) generally are not allowed in computing the AMT; and (c) have substantial nonrefundable personal credits.

Expanded American Opportunity Tax Credit Extended

The American Opportunity Tax Credit (AOTC) under Code Sec. 25A(i) was originally enacted as part of the American Recovery and Reinvestment Act of 2009 (ARRA, P.L. 111-5), essentially as a modified version of the pre-existing Hope credit. The AOTC allowed eligible taxpayers to claim a credit equal to 100% of the first $2,000 of qualified tuition and related expenses, and 25% of the next $2,000 of qualified tuition and related expenses (for a maximum tax credit of $2,500 for the first four years of post-secondary education), for tax years beginning in 2009 or 2010. The AOTC was subsequently extended for two years (through 2011 and 2012) by the 2010 Tax Relief Act.

Under pre-Act law, after 2012, the AOTC was scheduled to fall to 100% of the first $1,000 (as inflation adjusted) of qualified tuition and related expenses, and 50% of the next $1,000 (as inflation adjusted) of qualified tuition and related expenses. Other favorable rules relating to the AOTC that were also set to expire included increased AGI limits for qualification, refundability for a portion of the credit, and allowance of the credit for course materials.

New law. The 2012 Taxpayer Relief Act provides a 5-year extension of the expanded AOTC, allowing it to be claimed in tax years after 2008 and before 2018. (Code Sec. 25A(i), as amended by Act Sec. 103(a)(1))

Various Child Tax Credit Provisions Made Permanent or Extended

The Child Tax Credit (CTC) allows taxpayers to claim a tax credit for each qualifying child under age 17 that the taxpayer can claim as a dependent. The CTC phases out when taxpayers' income exceeds certain thresholds.

The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA, P.L. 107-16) increased the per-child credit amount from $500 to $1,000, and made the CTC partially refundable for eligible taxpayers. In 2009, the ARRA modified the formula for determining the refundable portion of the CTC in a taxpayer-friendly way to apply to 15% of earned income in excess of $3,000 for tax years beginning in 2009 and 2010. These provisions were extended through 2012 by subsequent legislation (including the 2010 Tax Relief Act), but were set to expire thereafter.

Under pre-Act law, after 2012, the maximum CTC was to drop from $1,000 to $500, the credit was not to be allowed against AMT, and the liberalized rules on refundability (above) would no longer apply.

New law. The 2012 Taxpayer Relief Act eliminated the “sunsetting” provision in EGTRRA that would have caused the $1,000 credit amount and other EGTRRA rules to expire. Thus, these rules are now permanent. The 2012 Taxpayer Relief Act also provides a 5-year extension of ARRA's provision on refundability, such that it applies in tax years after 2008 and before 2018. (Code Sec. 24(d)(4), as amended by Act Sec. 103(b))

Certain Earned Income Tax Credit Rules Extended

Certain low-income workers are allowed a refundable Earned Income Tax Credit (EITC). An eligible individual is allowed a credit against his or her tax for the tax year in an amount equal to the credit percentage of so much of the taxpayer's earned income for the tax year as doesn't exceed the earned income amount. The credit percentage and the earned income amount, and therefore the maximum EITC, depend on the number of qualifying children that the taxpayer has. The statutory earned income amounts are increased annually for inflation, and phaseout amounts limit the amount of the credit.

In 2009, ARRA provided special EITC rules for 2009 and 2010 with higher credit amounts (45%) for eligible taxpayers with three or more children and marriage penalty relief (by increasing the income threshold at which the phaseout begins). These favorable rules were extended for two years by the 2010 Tax Relief Act.

Under pre-Act law, after 2012, these favorable rules would disappear, and the EITC would revert to pre-2009 rules.

New law. The 2012 Taxpayer Relief Act provides a 5-year extension of these favorable EITC rules, rendering them applicable to tax years after 2008 and before 2018. (Code Sec. 32(b)(3), as amended by Act Sec. 103(c))

Rule Disregarding Refunds in Determining Eligibility for Certain Benefits Modified and Made Permanent

Code Sec. 6409, which was added by the 2010 Tax Relief Act, provides that for purposes of determining a taxpayer's eligibility for benefits or assistance under any federal program or federally-financed state or local program (or the amount or extent of benefits thereunder), any refunds made to the taxpayer aren't taken into account as income or resources for a 12-month period after receipt. This provision applied retroactively, starting with amounts received after Dec. 31, 2009.

Under pre-Act law, this provision wasn't to apply to amounts received after 2012.

The 2012 Taxpayer Relief Act removed the termination date from this section and made it permanent. (Code Sec. 6409, as amended by Act Sec. 103(d)) Code Sec. 6409, as amended, applies to amounts received after Dec. 31, 2012.

New Liberalized Rules for Transferring Amounts in Applicable Retirement Plans to Designated Roth Accounts

Under current law, a taxpayer with an applicable retirement plan which includes a qualified Roth IRA contribution plan can transfer amounts to a Roth IRA account, but only to the extent that the taxpayer had a right to remove such amounts from the plan (e.g., because he had attained age 59 1/2). The amount converted is included in the taxpayer's income in the year of the conversion, but future distributions from the Roth IRA are tax-free (as is the account's appreciation).

New law. For transfers after Dec. 31, 2012, in tax years ending after that date, plan provisions in an applicable retirement plan which includes a qualified Roth contribution program can allow participants to elect to transfer amounts to designated Roth accounts with the transfer being treated as a taxable qualified rollover contribution under Code Sec. 408A(e). Such a transfer will not be treated as violating Code Sec. 401(k)(2)(B)(i), Code Sec. 403(b)(7)(A)(i) , Code Sec. 403(b)(11), or Code Sec. 457(d)(1)(A). (Code Sec. 402A(c)(4)(E), as added by Act Sec 902)