A Guide to
2013 Tax Law Changes
(& More)

Presented by:

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When President Obama signed the fiscal cliff bill into law on January 2, a host of major federal tax changes ensued. Some were long planned, and others occurred to a greater or lesser degree than anticipated. Here are the details on those tax changes and many others – the details taxpayers absolutely need to know for 2013.

The bad news is that Americans are going to see significant tax increases this year. The good news is that some of the tax breaks from 2010-12 were preserved, and a couple of expired tax perks have even been brought back. Estate and tax planning professionals will also be able to assist their clients with more certainty, as some provisions that were once temporary are now permanent.

Reminder: you should consult with a qualified tax or financial professional before making short-term or long-term changes to your tax or financial strategy.

The Major Changes for 2013

1 - The payroll tax holiday is over.

Taxes are going up for most Americans – including the middle class.

In 2013, the payroll tax rate returns to its old level and employees will pay 6.2% in Social Security taxes rather than the 4.2% they paid in 2011-12. This year, individual wages up until $113,700 will be subject to the tax, so the maximum payroll taxes that an individual worker could pay in 2013 top out at $7,049.40.[1]

2 - The top marginal income tax rate is now 39.6%.

A sixth bracket is back for 2013.

The highest earners will find themselves in it, facing a 4.6% hike from 2012. The IRS has announced the income thresholds delineating the 2013 federal income tax brackets:

Bracket	Single Filers	Married Filing Jointly or Qualifying Widower	Married Filing Separately	Head of Household
10%	Up to $8,925	Up to $17,850	Up to $8,925	Up to $12,750
15%	$8,926-$36,250	$17,851-$72,500	$8,926-$36,250	$12,751-$48,600
25%	$36,251-$87,850	$72,501-$146,400	$36,251-$73,200	$48,601-$125,450
28%	$87,851-$183,250	$146,401-$223,050	$73,201-$111,525	$125,451-$203,150
33%	$183,251-$398,350	$223,051-$398,350	$111,526-$199,175	$203,151-$398,350
35%	$398,351-$400,000	$398,351-$450,000	$199,176-$225,000	$398,351-$425,000
39.6%	$400,001 or more	$450,001 or more	$225,001 or more	$425,001 or more

It is possible – albeit remotely possible – that some filers may owe hundreds less in federal taxes for 2013 if this year's COLAs put them the next lowest bracket.[2]

3 - Estate taxes top out at 40% with a $5.25 million individual exemption.

The less-publicized news: the individual exemption is still portable.

Congress gave families a great estate planning break in the fiscal cliff deal. The portable individual estate tax exemption is no longer a temporary thing; it has been made permanent. This means that an unused portion of a $5.25 million individual exemption may be transferred to the surviving spouse at the death of the first deceased spouse.

You may have read earlier that the individual exemption would be set at $5 million this year. The estate tax exemption is subject to indexing for inflation, and in the fiscal cliff bill, Congress chose to keep and continue the indexing off of the $5 million base from 2011. Thus, we have the $5.25 million exemption amount.

Also, the estate and gift tax remain unified; if you choose, you can use up the whole $5.25 million individual exemption on gifts made during your lifetime.[2,3]

4 - Investment income taxes are slightly altered.

Dividends will not be taxed as ordinary income.

While that is a huge relief for top earners, their dividends and long-term capital gains will still be taxed more in 2013. Here are the newly adjusted tax rates on both of these forms of investment income.[3]

10% & 15% brackets	**0%**
25%, 28%, 33% & 35% brackets	**15%**
39.6% bracket	**20%**

5 - Upper-income Americans face two healthcare surtaxes in 2013.

Be mindful of your MAGI this year.

Should your modified adjusted gross income (MAGI) exceed certain thresholds in 2013, you will contend with a new Medicare surtax and an increase in any Medicare payroll tax you pay (which is actually a form of withholding).

* A 3.8% Medicare surtax will be levied on the lesser of either a) net investment income or b) the amount of MAGI exceeding $200,000 for single filers, $250,000 for couples filing jointly, and $125,000 for spouses filing separately.

* While all wage earners routinely pay a 1.45% Medicare payroll tax on earned income, the Medicare payroll tax rises 0.9% for employees after their MAGI exceed the $200,000 individual threshold this year. Your employer will deduct 1.45% in Medicare payroll taxes from your paycheck up until that threshold, and 0.9% more from your paycheck once your wages surpass it.

If you are married and file jointly, this could get complicated. While your individual MAGI may be $200,000 or less (and therefore below the individual threshold), your joint MAGI might top the applicable $250,000 threshold and that could make the 0.9% surtax kick in.

In regard to these thresholds, remember that the definition of MAGI encompasses many different forms of income: your salary, your adjusted gross income (AGI), RMDs from a 401(k), 403(b) or traditional IRA, "unearned" net investment income (such as net capital gains from the sale of real estate or passive income from a partnership), and any foreign wages eligible for the foreign earned income exclusion.[4]

6 - The AMT has been permanently patched.

Credit the fiscal cliff deal.

The Alternative Minimum Tax has at last been indexed to inflation due to the American Taxpayer Relief Act of 2012. The fix is retroactive to the beginning of last year, which will spare about 34 million taxpayers from the sting of the AMT as they file 2012 federal returns. The 2013 AMT exemption amounts are:

Single filers	**$51,900**
Married filing separately	**$40,400**
Married filing jointly/qualifying widower	**$80,800**

Future AMT exemption amounts will be higher, of course.[2,5]

7 - Phase-outs of itemized deductions & personal exemptions are back.

A clever method of raising marginal tax rates for high earners.

The Pease limitation and the personal exemption phase-out (PEP) are back permanently; high-income taxpayers haven't seen them since 2010.

For single filers, the threshold for both the PEP and the Pease limitation kicks in at $250,000 of AGI; for married joint filers, the threshold is $300,000 of AGI.

Reinstalling the Pease limitation effectively adds about 1% to the top tax rate. Under the Pease provision, taxpayers with AGI surpassing the above thresholds lose 3 cents of itemized deductions for every dollar of income that exceeds them. So if a single CEO should earn $400,000 in 2013, that CEO's itemized deductions will be reduced by $4,500 this year (3% of the $150,000 of income above the $250,000 phase-out start). For the record, the phase-out is limited to 80% of deductions (a detail irrelevant for almost all taxpayers).

The personal exemption phase-out (PEP) reduces in the value of the personal exemption for taxpayers above certain income thresholds. (Last year, the personal exemption was $3,800 for most taxpayers.) This year, the PEP will phase out totally at about $420,000 of AGI for married joint filers.[3,6]

8 - More employees can go Roth with their workplace retirement plans.

A little-noticed byproduct of the fiscal cliff agreement.

Thanks to the American Taxpayer Relief Act, employer-sponsored retirement plans can now permit plan participants to convert a balance in a non-Roth 401(k), 403(b) or 457 account to an account within the retirement plan that offers a Roth option.

The conversion is permissible at any age and may include all pre-tax salary deferrals. Any account balance so converted must be included in the income of the taxpayer in the year of the Roth conversion.

If an employer-sponsored retirement plan lacks a Roth option, it must add one before any of these in-plan Roth conversions can take place.[7,8]

Tax Breaks Extended or Reinstated for 2013

9 - Bonus depreciation is still around for 2013.

The Section 179 deduction amount has also increased.

In 2012, businesses could deduct as much as 50% of the cost of their investments in so-called "qualified property" placed into service. "Qualified property" does not include real estate, but it does encompass many forms of new business equipment. (Only new property is eligible for bonus depreciation.) In 2013, businesses can again write off such investments at this accelerated rate thanks to the fiscal cliff bill passed at the start of the year. This may or may not apply in 2014.

The bill also raised the maximum Section 179 deduction amount to $500,000 for both the 2012 and 2013 tax years, with the dollar-for-dollar phase-out kicking in above $2 million.[3,7]

10 - Short-sale tax relief is again available.

Congress renews the popular deduction for struggling homeowners.

Are you underwater? If you are, you should know that any forgiveness of mortgage debt linked to a short sale (or some other means) won't be considered taxable income this year. This tax break emerged from the fiscal cliff deal. This tax break has also been made retroactively available for 2012.[3,7]

11 - Marriage penalty relief is permanently extended.

No sunset for this EGTRRA provision.

The American Taxpayer Relief Act of 2012 preserves the doubling of the standard deduction for married couples who file jointly and the enlargement of the 15% income tax bracket for such filers.[7]

12 - Taxpayers may still (optionally) deduct state & local sales taxes.

Congress has extended this alternative for another year.

This is useful for people who live in Florida and other states that refrain from collecting state income tax. Taxpayers residing in such states can still claim an itemized deduction for state and local sales taxes this year. This tax break is also available for the 2012 tax year.[7]

13 - The IRA charitable rollover is back.

It may not be too late to arrange one for 2012.

Many charities and donors would like to see this opportunity made permanent. It isn't yet, but IRA owners who are 70½ or older may arrange IRA charitable rollovers this year by asking their IRA custodians to send the amount of the donation directly to a charity or non-profit organization. While you can't get a tax deduction this way, the sum going to charity will not included in your adjusted gross income. (Don't just take a distribution from your IRA and give the money to charity yourself – then the money will be taxed as regular income.)

According to *Forbes,* the fiscal cliff deal (which brought back this opportunity) also made it possible for a few IRA owners to make an IRA charitable rollover for 2012 and have it count as part (or even all) of their 2012 RMD. How? This is only possible if a) you delayed taking an IRA distribution until

December and b) you donate cash to charity between now and January 31. Be sure to see a qualified tax advisor about this if you are interested.[3,9]

14 - The Child Tax Credit is preserved at current level.

The same goes for the adoption tax credit & dependent care credit.

These extensions are permanent. EGTRRA altered the CTC in 2001, boosting it to $1,000; it will remain at that amount in 2013. The limit on the dependent care credit this year remains at $3,000 for one child or disabled dependent and $6,000 for two or more, with a phase-out of the applicable credit rate of 35% beginning at $15,000 AGI; there is a 20% applicable credit rate for taxpayers with an AGI exceeding $43,000. The adoption credit (indexed for inflation) is capped at $10,000 in 2013, as is the income exclusion for employer-provided adoption benefits.[7]

15 - American Opportunity Tax Credit preserved as is.

The valuable education credit is now available through 2017.

This annual credit of up to $2,500 is available to half-time and full-time students for the first four years of college. Had the fiscal cliff deal not happened, it would have had a $1,900 ceiling in 2013 and been available only for two years of post-secondary education. The phase-out range for single filers is between $80,000-90,000, and from $160,000-180,000 for joint filers.[10,11]

16 - Coverdell contribution limits not reduced.

It may be a shot in the arm for these underutilized college savings vehicles.

The fiscal cliff bill permanently extended the present $2,000 yearly contribution limit on Coverdell Education Savings Accounts. Families have recently used these tax-advantaged investment accounts to save for qualified elementary and secondary school expenses as well as qualified college expenses; it will be that way from now on. The phase-out threshold on these accounts rises to $190,000 this year for joint filers; it remains at $95,000 for single filers.

Without the fiscal cliff deal, Coverdell account assets could have only been used to meet college expenses and the annual contribution limit would have been $500.[11]

17 - Three other key education tax incentives have been retained.

More tax perks to help students & families.

Taxpayers may take an above-the-line deduction for qualified tuition and related expenses for the 2013 (and 2012) tax years, subject to phase-outs. The deduction limit is $4,000 for households with incomes of $65,000 or less ($130,000 for joint filers). The deduction is retroactively available for 2012.

Second, taxpayers may exclude up to $5,250 of employer-provided education assistance from gross income in 2013 and subsequent years.

Third, the EGTRRA expansion of the student loan interest deduction is now permanent. Individuals who have paid interest on education loans may claim an above-the-line deduction of up to $2,500. The phase-out ranges for this deduction are $60,000 for single filers and heads of household, $120,000 for joint filers.[3,7,11]

18 - Teachers may again deduct classroom expenses.

A nice break for K-12 educators.

The fiscal cliff bill extended the above-the-line deduction for classroom expenses of elementary and secondary school teachers; it is set at $250 for 2013. The deduction may also be claimed for 2012.[3,12]

19 - Limit on the Earned Income Tax Credit is higher.

Low-wage tax filers may qualify for this break.

Married couples filing jointly with three or more children may qualify for the maximum EITC for 2013, which is $6,044 (it was $5,891 for 2012). (See a tax professional for full details.)[3,5,12]

20 - Mortgage insurance premiums are potentially deductible.

This tax break is now scheduled to sunset at the end of 2013.

In 2013, middle-income and lower-income homeowners required to pay for mortgage insurance as a condition of a home loan may be eligible to deduct such premiums.[7]

21 - Deductions for conservation donations return.

Real property donations to non-profits might qualify for deductions.

In 2011, charitable contributions of real property for conservation purposes could be deducted if the contribution amounted to 50% or less of the donor's total charitable contribution base. This deduction opportunity is available for another year and is retroactively available for 2012. (Some forms of partial interest in real property may also qualify.)[3,7]

22 - The R&E credit sticks around.

This 32-year-old tax perk gets yet another reprieve.

The American Taxpayer Relief Act extends the R&E credit through the end of 2013. Could it one day be extended permanently? That is anyone's guess.[7]

23 - Green tax incentives are still available.

Energy efficiency could be rewarded with a federal tax credit.

The ATRA also temporarily extended (through 2013) the $500 credit for taxpayers making energy efficiency improvements, as well as credits for manufacturers of energy-efficient homes and appliances.[7]

24 - Favorable rules remain for small business stock gains.

These rules will be in place for another year.

For any taxpayer besides a corporation, any gain from the sale or exchange of qualified small business stock held for more than 5 years is 100% excluded from income if the shares are acquired between September 28, 2010 and January 1, 2014.[7]

25 - Two tax breaks pertaining to S corporations have been extended.

One involves donated property; the other involves the recognition period.

As a result of the ATRA, a shareholder's basis in an S corporation may again be decreased by the shareholder's *pro rata* share of the adjusted basis of property donated by that S corporation to a qualified non-profit. This tax break is set to sunset at the end of 2013.

The recognition period for built-in gains tax for S corps that were formerly C corps was previously shortened from ten years to seven years with regard to sales of assets in 2009 and 2010, and shortened to five years with regard to sales of assets in 2011. Thanks to the ATRA, a five-year recognition period also applies for sales of assets in 2012 and 2013.[7]

26 - Employment-based credits have been extended.

They will be available for at least another year.

The Work Opportunity Credit (and the Returning Heroes and Wounded Warriors Work Opportunity Tax Credits) may still be claimed in 2013.[7]

27 - Baseline for medical expenses deduction rises.

This change doesn't yet affect taxpayers 65 & older.

In 2012, you could claim a tax deduction if your total medical expenses exceeded 7.5% of taxable earned income (minus deductions and exceptions). In 2013, you can only claim the medical expenses deduction if those expenses exceed 10% of your taxable earned income. The good news: if you will be age 65 or older by the end of this year, the 7.5% baseline still applies for you through 2016.[13,14]

28 - New tax on the price of some medical devices.

Corrective lenses & hearing aids are exempt from it.

This year, a 2.3% federal tax will be added to the price of certain medical devices, including pacemakers, defibrillators, artificial joints and other substantial medical equipment. Basic hearing and vision aids will not be hit with this tax.[13]

29 - FSA contributions are limited to $2,500 in 2013.

This is the first federally mandated cap for these accounts.

In past years, there was no official limit on Flexible Spending Account contributions, although most employers capped them at $5,000. The new $2,500 yearly limit is per individual, so a married couple can contribute a total of $5,000 to a pair of FSAs this year. FSAs remain use-it-or-lose-it accounts.[13,14]

Key COLAs for 2013

30 - Standard deduction amounts rise about 2%.

For those who don’t want to itemize, the 2013 standard deduction exemption amounts are:

Single filers/married filing separately	**$6,100**
Heads of household	**$8,950**
Married filing jointly/qualifying widower	**$12,200** [2]

31 - Certain special deduction amounts adjusted.

In 2013, the standard federal income tax deduction for an individual who can be claimed as a dependent is either a) $1,000 or b) the sum of $350 and that dependent’s earned income, whichever is greater.

The additional standard deduction amount for the aged or the blind is $1,200 this year, $1,500 if that individual is single and not a surviving spouse.[2]

32 - Personal exemption amount has risen by $100.

It was $3,800 last year; it will be $3,900 this year. On the downside, it is now subject to phase-outs (refer to item #7 in this guide). The phase-out range (adjusted gross income) runs between $250,000-372,500 for single filers and $300,000-422,500 for joint filers.[5]

33 - Higher contribution limits for IRAs, 401(k)s, 403(b)s & 457 plans.

The federal government has made the following cost-of-living adjustments (COLAs) to popular qualified retirement plans, increasing the limit on the amount of money an individual taxpayer can contribute to these plans in 2013.[15]

Traditional & Roth IRAs	**$5,500** (up $500 from 2012), **$6,500 if 50 or older in 2013**
401(k)s, 403(b)s, most 457 plans & the Thrift Savings Plan	**$17,500** (up $500 from 2012), **$23,000 if 50 or older in 2013**

34 - Higher phase-outs regarding Roth IRA contributions.

Q: How much money can you make and still contribute to a Roth IRA?

Single filers and heads of household can make a full Roth IRA contribution for 2013 if their MAGI is less than $112,000; the phase-out range is from $112,000-127,000.

For married joint filers, the MAGI phase-out occurs at $178,000-188,000 in 2013; married couples with MAGI of less than $178,000 can make a full contribution.[16]

35 - New COLAs affect deductions on traditional IRA contributions.

Q: How much money can you make and still deduct some or all of your contribution to a traditional IRA?

Single filers and heads of household who contribute to both a workplace retirement plan and a traditional IRA in 2013 can deduct 100% of their IRA contributions if their MAGI is $59,000 or less. A partial deduction is available to such filers with MAGI between $59,001-69,000.

As for married couples filing jointly, if the spouse making the IRA contribution participates in a workplace retirement plan, the traditional IRA contribution is fully deductible if the couple's MAGI is $95,000 or less. A partial deduction may be claimed if the couple's MAGI is between $95,001-115,000.

If the spouse making a 2013 IRA contribution *doesn't* participate in a workplace retirement plan but the other spouse does, the IRA contribution may be wholly deducted if the couple's MAGI is $178,000 or less, with the phase-out range from $178,001-188,000.[17,18]

36 - COLAs for SEPs, SIMPLE plans, & ESOPs.

The IRS has made 2013 adjustments to contribution, compensation and distribution thresholds specific to these plans.[19]

SEPs	Maximum compensation of $255,000 (up $5,000 from 2012)
SIMPLE plans	Maximum contribution of $12,000 (up $500 from 2012) (Catch-up contributions remain capped @ $2,500)
ESOPs	5-year distribution threshold of $1,035,000 (up $20,000 from 2012) Additional year threshold of $205,000 (up $5,000 from 2012)

37 - Limit on annual gift tax exclusion has increased.

After several years at $13,000, it rises to $14,000 for 2013. So this year, individuals may gift up to $14,000 each to as many different people as desired, tax-free.

Gifts that surpass the $14,000 limit may be subject to federal gift tax of up to 40% and count against the lifetime gift tax exclusion, which has increased to $5.12 million in 2012.[3,20]

38 - "Kiddie tax" exemption amount is $50 higher.

If net unearned income reported on a child's tax return exceeds $1,000 in 2013, the "kiddie tax" will kick in. The exemption was $950 in 2012.

As for the "nanny tax" exemption, it remains at $1,800 in 2013. Any cash remuneration paid by an employer for domestic service in said employer's private home becomes FICA wages above that level. If you pay a maid, au pair, or other domestic employee more than $1,800 this year, you are defined as an employer by the IRS. You are looking at the "nanny tax" and you should read IRS Publication 926 (the Household Employer's Tax Guide) and consult a tax advisor.[21,22]

39 - More pre-tax salary can be used to pay for commuting costs.

In 2013, the monthly cap on the amount of pre-tax salary that can be assigned to this rises to $245. Take note: the ATRA also retroactively raised the 2012 monthly cap from $125 all the way up to $240.[2]

40 - Social Security has adjusted its retirement earnings test amounts.

This is no change in tax law, but Social Security recipients need to know about this COLA.

If you receive Social Security benefits and you will be younger than full retirement age at the end of 2013, $1 of your benefits will be withheld for every $2 that you earn above $15,120 (the 2012 limit was $14,640).

If you receive Social Security benefits and reach full retirement age during 2013, $1 of your benefits will be withheld for every $3 that you earn above $40,080 – but that restriction applies only to earnings in the months prior to attaining full retirement age. (The applicable 2012 threshold was $38,880.) There is no limit on earnings starting the month an individual attains full retirement age.

Now, how much of your Social Security income might be taxable in 2013? It depends on your "combined income", which Social Security measures with the following formula:

Adjusted gross income + non-taxable interest + 50% of Social Security benefits = combined income

If your combined income is between the following amounts, you may have to pay federal income tax on up to 50% of your benefits:

Single filers ("individuals")	**$25,000-34,000**
Joint filers	**$32,000-44,000**

If it exceeds the following amounts, you may have to pay federal income tax on up to 85% of your benefits:

Single filers ("individuals")	**$34,000**
Joint filers	**$44,000**

Those who are married and file separately will "probably" have their Social Security benefits taxed, according to the program's website. The above thresholds are never indexed for inflation; they are the same year after year.[1,23,24]

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