CCH Tax Briefing

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2012 Tax Policies Of The Major Presidential Candidates

September 11, 2012

Special Report

HIGHLIGHTS

- 2013, 2014 And Beyond
- Individual Income Tax Rates
- Capital Gains And Dividends
- Targeted Deductions
- Federal Estate Tax
- Business Enhancements/ Extensions
- Corporate Tax Reform
- International Tax Changes

INSIDE

Presidential Candidates Outline Tax Policies

On November 6, 2012, Americans will elect the occupant of the White House for the next four years. As President of the United States, he will play a major role shaping tax policy and possibly reforming the entire Tax Code. This special CCH Briefing describes the tax policies of President Barack Obama, the Democratic Party candidate for President, and former Governor Mitt Romney, the Republican Party candidate for President, with analysis of the potential impact of their tax positions both for the immediate future and for 2014 and beyond.

IMPACT. *Under current law, the Bush-era tax cuts (reduced income tax rates, reduced capital gains/dividends tax rates, and much more) are scheduled to expire after December 31, 2012. Effective January 1, 2013, sequestration under the Budget Control Act of 2011 is scheduled to take effect, with the goal of reducing the federal budget deficit by nearly $1 trillion over 10 years. In addition, after 2011, a host of so-called tax extenders expired, and after 2012, numerous additional temporary incentives are scheduled to sunset. Moreover, the 2012 payroll tax holiday, which reduced the employee-share of OASDI taxes by two percentage points, is also slated to expire after December 31, 2012. The combination of all these events has many commentators referring to 2013 as "taxmageddon" or the "fiscal cliff."*

The balance between Democrats and Republicans in the House and the Senate may also change on election day. However, whether either party acquires sufficient political capital, let alone a mandate, on taxes to address short-term issues such as sunsetting provisions and long-term issues like tax reform, remains to be seen.

CAUTION. *Between the date of publication of this special CCH Briefing and election day, November 6, 2012, the positions of the candidates may change. CCH has based this special Briefing on what it considers accurate, nonpartisan and unbiased information at the time of publication.*

SHORT AND LONG-TERM POSITIONS

Short term. Before leaving for their August recess, lawmakers passed competing tax-cut extension bills in the House and Senate:

- The House bill, the Job Protection and Recession Prevention Act of 2012 (HR 8), would extend all of the Bush-era tax cuts through 2013 along with increased exemption amounts for the alternative minimum tax (AMT) and more.
- The Senate bill, the Middle Class Tax Cut Bill (Sen. 3412), also extends the Bush-era tax cuts, but not for higher-income taxpayers, and provides increased AMT exemption amounts and more.

The general consensus is that, for the most part, the candidates will follow their respective party's lead, with Obama supporting the Democrat's Sen. 3412 and Romney supporting the GOP-sponsored HR 8. The two bills could serve as vehicles for the post-election lame duck Congress to extend some or all of the Bush-era tax cuts through 2013.

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Long term. "Tax reform" is a buzz word on the lips of both candidates and their political parties, but its definition and implementation remain relatively elusive. "Fairness," "economic growth," "infrastructure development," and "the national deficit" are all part of the present debate. Corporate and business tax reform, with its international component, and tax reform on the individual income and estate tax levels, have all been flagged by the candidates as essential to the upcoming debate.

INDIVIDUALS: IMMEDIATE IMPACT

In late 2010, Congress passed and President Obama signed the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 (2010 Tax Relief Act), which extended through 2012 the Bush-era tax cuts. The 2010 Tax Relief Act also extended many individual tax extenders through 2011. In February 2012, President Obama signed the Middle Class Tax Relief and Job Creation Act of 2012, which extended the payroll tax holiday through 2012.

COMMENT. *Both candidates agree that something other than a complete sunset of the Bush-era tax cuts and complete elimination of extender provisions must take place. Preferably, decisions will be made quickly, but some Hill watchers predict the lame duck Congress will punt the task to the next Congress that convenes in January 2013.*

Income Tax Rates

Under current law, the 10, 15, 25, 28, 33, and 35 percent individual income tax rates, originally enacted in 2001 and most recently extended by the 2010 Tax Relief Act, are scheduled to expire after 2012. The 10 percent rate would disappear entirely and the remaining rates would be 15, 28, 31, 36, and 39.6 percent after 2012.

Obama

Obama has proposed to continue the Bush-era individual tax rates for all but "higher-income" individuals (which the White House broadly defines as individuals with incomes over $200,000 and families with incomes over $250,000). Under Obama's proposal, the individual income tax rates after 2012 would be 10, 15, 25, 28, 36, and 39.6 percent. The inflation-adjusted rate brackets associated with the Bush-era rates would also continue, except for adjustment within the new 36 and 39.6 rates to accommodate the $200,000/$250,000 threshold.

> "Both candidates agree that something other than a complete sunset of the Bush-era tax cuts and complete elimination of extender provisions must take place."

Romney

Romney has proposed to extend permanently the current individual income tax rates of 10, 15, 25, 28, 33, and 35 percent.

COMMENT. *For the longer term, Romney also has discussed comprehensive tax reform as replacing current rates with a more streamlined, and lower, tax structure.*

COMMENT. *Some Democrats in Congress are promoting a $1 million threshold for a rate hike as a compromise proposal. In any event, an extension of the Bush-era tax rates for most individuals is being proposed for 2013 only, with wider tax reform in an improved economy anticipated for later years at this point.*

IMPACT. *Effective January 1, 2013, two new Medicare taxes kick-in for higher-income individuals (generally individuals with incomes over $200,000 and families with incomes over $250,000). The Patient Protection and Affordable Care Act (PPACA) imposes a 0.9 percent additional Medicare tax and a 3.8 percent Medicare contribution tax. Although Romney has vowed to repeal the PPACA, undoing these two taxes quickly enough to apply to 2013 will prove challenging.*

Capital Gains/Dividends

Under current law, qualified capital gains and dividends are taxed at zero percent for taxpayers in the 10 percent and 15 percent brackets and at 15 percent for all other taxpayers. This investor-friendly treatment, originally enacted in 2003 and extended in the 2010 Tax Relief Act, is scheduled to expire after 2012.

Romney

Romney has proposed to make permanent all of the Bush-era tax cuts, including the reduced tax rates on qualified dividends and capital gains. Romney has also discussed exempting from tax all capital gains, dividends and interest for individuals making less than $200,000 a year.

Obama

Obama has proposed to tax dividends as ordinary income for higher-income individuals (taxpayers in the proposed 36 percent and 39.6 percent tax brackets) after 2012. Capital gains would be taxed at a 20 percent rate after 2012 for individuals with incomes over $200,000 and families with incomes over $250,000.

IMPACT. *Certain large capital-gains transactions, as well as plans for special dividends, have reportedly already been set into motion for completion by year-end 2012. These taxpayers see the risk as too high to defer dividends and capital gains recognition into 2013 or later. Many other investors are still on the sidelines, waiting to either sell or hold depending upon the results of the elections. The 3.8 percent Medicare tax in addition to the capital gains rate is also being factored into plans to sell before 2013. Some observers are lobbying for a $1 million minimum on application of the 20 percent rate, fearing a precipitous stock market selloff while the economy remains fragile.*

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Pease Limitation/Personal Exemption Phaseout

The 2010 Tax Relief Act extended temporary repeal of the Pease Limitation on itemized deductions (named for the member of Congress who sponsored the original legislation) and the Personal Exemption Phaseout (PEP) through 2012, both applicable to higher-income individuals.

Obama

Obama has proposed to allow the current temporary repeal of the Pease Limitation and PEP to expire after 2012. Projected for inflation, the 2013 phaseouts would start for the Pease Limitation at about $178,000 ($89,000 if unmarried filing separately) and for the PEP at $267,000/$178,000. Additionally, Obama has proposed to limit the value of all itemized deductions and certain other tax expenditures for individuals with incomes over $200,000 and families with incomes over $250,000 by limiting the tax value of otherwise allowable deductions and exclusions to 28 percent.

Romney

Romney has proposed to permanently repeal the Pease Limitation and PEP. However, his longer-term tax reform proposals do limit certain deductions taken by higher-income taxpayers.

Marriage Penalty Relief

The 2010 Tax Relief Act extended marriage penalty relief for married couples filing jointly (an increase in the standard deduction and the 15 percent tax rate brackets to twice the amount applicable to single individuals) through 2012.

Romney

Romney has proposed to extend all of the Bush-era tax cuts, including marriage penalty relief.

Obama

Obama has proposed to extend the Bush-era tax cuts, including marriage penalty relief, for individuals, with the exception of a rate increase for single taxpayers with incomes at or above $200,000 and joint filers with incomes of $250,000 or more.

Child Tax Credit

Under current law, the $1,000 child tax credit, originally enacted in 2001 and most recently extended by the 2010 Tax Relief Act, is scheduled to expire after 2012.

Obama

Obama has proposed to make permanent the $1,000 child tax credit.

Romney

Romney has proposed to make permanent the $1,000 child tax credit.

IMPACT. *Unless extended, the child tax credit will be $500 effective January 1, 2013. Additional enhancements made in the Bush-era tax cuts will also expire. The current child credit starts to be phased out for taxpayers with income exceeding $110,000 (for joint filers) or $75,000 (for single individuals).*

Adoption Credit

The Bush-era tax cuts enhanced the adoption credit and the 2010 Tax Relief Act extended these enhancements through 2012.

Romney

Romney has proposed to extend the Bush-era tax cuts, including the enhanced adoption credit.

Obama

Obama has proposed to extend the enhanced adoption credit.

COMMENT. *The Patient Protection and Affordable Care Act (PPACA) made additional enhancements to the adoption credit, which expired after 2011. Obama has not proposed to extend these enhancements and Romney has proposed to repeal the PPACA.*

SELECTED POSITIONS OF THE CANDIDATES*

Obama --Individual taxes	*Romney – Individual taxes*
2013 rates higher for higher-income taxpayers only	2013 rates same as 2012 for all taxpayers
Unspecified future date: lower rates for middle/lower income brackets	Unspecified future date: 20% income tax rate reduction for all taxpayers
Higher capital gains/dividend rate for higher-income taxpayers	Eliminate tax on investment income for AGI below $200,000
$3.5 million estate tax exemption/45% rate	Abolish the estate tax
Replace AMT with "Buffett rule"	Repeal the AMT
Obama – Corporate Taxes	***Romney—Corporate Taxes***
Reduce maximum corporate tax rate to 28% (25% for manufacturing)	Reduce maximum corporate rate to 25%
Maintain worldwide system but with reforms	Implement territorial system of international tax

*(see candidates' statements for full details)

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Child And Dependent Care Credit

The child and dependent care credit is a percentage of the amount of work-related child and dependent care expenses paid by a qualified taxpayer to a care provider, subject to income limitations. Enhancements to the child and dependent care credit extended by the 2010 Tax Relief Act are scheduled to expire after 2012.

Obama

Obama has proposed to extend the enhanced child and dependent care credit.

Romney

Romney has proposed to extend all of the Bush-era tax cuts, including the child and dependent care credit.

Alternative Minimum Tax

The 2010 Tax Relief Act "patched" the AMT to prevent its encroachment on middle-income taxpayers. The AMT itself was first enacted to prevent wealthy individuals from paying no income taxes as the result of deductions and credits. Since then, an increasing number of taxpayers have slipped into its grasp as inflation has risen and deductions and credits contained within the Internal Revenue Code have increased. The latest patch, effective for 2010 and 2011, provided for increased exemption amounts and other targeted relief. Without a continuation of the AMT patch at or slightly above the 2011 level, an estimated 20 million more individuals would be subject to the AMT in 2012.

Romney

Romney has proposed to abolish the AMT.

Obama

Obama has proposed to replace the AMT with the so-called Buffett Rule.

COMMENT. *Obama has described the Buffett Rule as ensuring that taxpayers making over $1 million annually would pay an effective tax rate of at least 30 percent. The Buffett Rule is primarily a long-term proposal, however, with Obama supporting a 2012 and 2013 patch through several bills already introduced this year.*

IMPACT. *If Congress does not act until January on certain extenders—including the AMT exemption—that officially expired at the end of 2011, the IRS predicts major delays during the 2013 tax filing season until 2012 Forms 1040 and Instructions can properly reflect the law. Given this pressure on 2012 return filing, a smaller extenders bill may pass before Election Day or shortly thereafter to specifically address 2012 provisions that would otherwise remain expired.*

> "Tax reform" is a buzz word on the lips of both candidates and their political parties…"

Payroll Tax Holiday

After December 31, 2012, the current payroll tax holiday is scheduled to expire. The employee-share of OASDI taxes is scheduled to increase from 4.2 percent (in effect for calendar year 2012) to 6.2 percent (the employer share remains 6.2 percent).

Obama

Obama has not addressed the payroll tax holiday.

Romney

Romney has not addressed the payroll tax holiday.

IMPACT. *The two-percentage point reduction in OASDI taxes provided $2,201 in savings up to the Social Security wage base of $110,100 for 2012. The Administration reported that the average worker would increase take-home pay by about $1,000 as the result of the 2012 extension. Sunsetting of the payroll tax holiday, similar to sunsetting of the Bush-era tax cuts, would effectively create a "tax increase" in 2013.*

COMMENT. *The OASDI rate for self-employed individuals for calendar year 2012 is 10.4 percent. Without extension, that rate also rises in 2013, to 12.4 percent.*

COMMENT. *Treasury Secretary Timothy Geithner indicated in early 2012 that the Administration did not anticipate asking for another extension into 2013*

American Opportunity Tax Credit

The American Recovery and Reinvestment Act of 2009 enhanced and renamed the Hope education credit as the American Opportunity Tax Credit (AOTC). The 2010 Tax Relief Act extended the AOTC through 2012. After 2012, the Hope credit, with its lower benefits would return.

Romney

Romney has not addressed the AOTC.

Obama

Obama has proposed to make permanent the AOTC.

COMMENT. *The AOTC reaches up to $2,500 of the cost of tuition, fees and course materials paid during the tax year. The AOTC is based on 100 percent of the first $2,000, plus 25 percent of the next $2,000, with adjusted gross income phase-outs starting at $80,000 for singles and $160,000 for joint filers. The Hope credit was limited to the first two years of post-secondary education. The AOTC may be claimed for all four years of post-secondary education.*

Higher Education Tuition Deduction

The above-the-line deduction for higher education tuition and related expenses expired after 2011. The maximum deduction was $4,000 for those with AGI up to $65,000 ($130,000 for joint filers) and $2,000 for those with AGI up to $80,000 ($160,000 for joint filers).

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Obama

Obama has proposed to extend the higher education tuition deduction.

Romney

Romney has not addressed the higher education tuition deduction.

Other Education Incentives

A number of other education-related tax incentives are also scheduled to expire, or be significantly reduced, after 2012, unless Congress takes action:

- The exclusion from income and employment taxes of up to $5,250 in annual employer-provided education assistance lasts only through 2012. After the scheduled sunset, employer-provided educational assistance will be excludable from gross income only if it qualifies under the more stringent working condition fringe benefit rules.
- The pre-2001 rule limiting the $2,500 above-the-line student loan interest deduction to the first 60 months of repayment returns after 2012, and the deduction will phase out at lower AGI thresholds. The maximum contribution amount to a Coverdell Education Savings Account (ESA) is reduced from $2,000 to $500 after 2012. Further, elementary and secondary school expenses will no longer be qualified ESA expenses.

Romney

Romney has proposed to extend the Bush-era tax cuts, which would apparently include these education incentives.

Obama

Obama has proposed to extend education tax incentives for lower and middle income taxpayers, which would apparently include these education incentives.

Federal Estate And Gift Tax

The 2010 Tax Relief Act set the maximum federal estate and gift tax rate at 35 percent for decedents dying in calendar years 2011 and 2012 with a $5 million exemption ($5.12 million adjusted for inflation for 2012). For 2011 and 2012, the estate of a surviving spouse may also be able to use the unused portion of the deceased spouse's estate tax exclusion ("portability").

Obama

Obama has proposed to set the maximum estate tax rate at 45 percent for decedents dying after December 31, 2012 with a $3.5 million exemption amount. Obama has also proposed to extend the current rules for portability. The separate gift tax exclusion would return to its 2009 level of $1 million under Obama's proposal.

Romney

Romney has proposed to abolish the federal estate and gift tax.

> **IMPACT.** *Absent Congressional action, the maximum estate and gift tax rate in 2013 is scheduled to be 55 percent, with a 5-percent surcharge applying to large estates in excess of $10 million. The exemption amount is scheduled to be $1 million. High net-worth taxpayers may want to maximize gifts with the certainty of the $5.12 million exclusion before the close of year end 2012.*

Health Care

The Patient Protection and Affordable Care Act (PPACA) and its companion law, the Health Care and Education Reconciliation Act of 2010 (HCERA), provided for significant changes to the delivery and taxation of health care in the U.S. Many of the tax-related provisions were effective in 2010, others in 2011 and 2012, with more (including the individual mandate) scheduled to take effect in 2013 and beyond.

Romney

Romney has proposed to repeal the PPACA and HCERA and replace it with his own plan. Romney has indicated he views favorably addressing pre-existing conditions and coverage for young adult children.

Obama

Obama would retain the PPACA and HCERA.

> **COMMENT.** *For more details about the tax provisions in the PPACA and HCERA, see CCH's Special Report: Supreme Court Upholds Health Care Law; All Tax Measures Preserved, June 29, 2012.*

Tax Extenders

Many popular, but temporary, tax incentives for individuals expired at the end of 2011. They include (not an exhaustive list):

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SELECTED CHANGES IN FEDERAL TAXES: 2012-2013 IF CONGRESS FAILS TO ACT

	2012	2013
Top individual tax rate	35%	39.6%
Capital Gains	15%*	20%
Dividends	15%*	Taxed at ordinary income rates
Top estate tax rate	35%	55%
Child tax credit	$1,000	$500
AOTC	Up to $2,500	Unavailable
Code Sec. 179 dollar limit	$139,000**	$25,000
WOTC for veterans	Up to $9,600	Unavailable
Research tax credit	Unavailable	Unavailable
Wind energy PTC	Available	Unavailable
*Zero percent for taxpayers in the 10 and 15 percent brackets		
**As adjusted for inflation		

- Teachers' classroom expense deduction;
- State and local sales tax deduction;
- Parity in the exclusion of transit benefits;
- Deduction for qualified mortgage insurance premiums;
- Special rules for contributions of capital gain real property made for conservation purposes; and
- Tax-free charitable distributions from IRAs.

Obama

Obama has proposed to extend the incentives for individuals through 2013.

Romney

Romney has not specifically addressed the tax extenders.

INDIVIDUALS: 2014 AND BEYOND

The basic goal for tax reform on the individual tax level expressed by both candidates is to broaden the tax base and lower tax rates. The candidates agree that tax reform should be revenue neutral. Each candidate also forecasts an improved economy from the savings of a simplified tax system and lower overall rates.

Income Tax Rates

Implementation of tax reform on the individual, personal return level in time for the 2013 tax year is considered an impossible stretch by most observers. Both candidates see some extension of the Bush-era income tax rates for 2013 as an immediate issue that neither party can avoid by moving straight into comprehensive tax reform. Also recognized is that the more comprehensive the tax reform, the more gradually it may need to be phased in, particularly the elimination of certain deductions to finance targeted tax rate reductions.

COMMENT. *While some economists and others have called for a consumption tax similar to a value added tax (VAT) or national sales tax to supplement the individual income tax and allow for lower rates, neither candidate has endorsed such proposals. Consensus is that such an additional tax will remain politically unfeasible at least for the near future. Nevertheless, proponents have a louder voice now than they have had for quite some time.*

Romney

Romney has suggested an across-the-board 20 percent reduction in individual marginal tax rates (for example, those now in the top 35 percent bracket would pay at a 28 percent rate and those now in the bottom 10 percent bracket would pay at a 8 percent rate). Few other specifics, however, have emerged. Like Obama, he is not ruling out finding at least some revenue for individual tax reform from higher-income taxpayers, saying that rate reductions would be revenue neutral, that he would place no new tax burdens on the middle class, and that "we are not going to have high-income taxpayers pay less of a tax burden than they pay today." Romney has not yet defined the parameters of "high-income" taxpayers nor the nature of those reforms and "loophole closing" that would counterbalance the benefits gained by those in the higher-income group through lower tax rates.

Obama

Obama has endorsed lower tax rates for middle and lower-income taxpayers and has said he would not be open to limiting deductions for that group. He has stated that revenue can be found in part by taxing higher-income individuals (those in the "top two percent") and significantly limiting their benefits from all itemized deductions.

Targeted Deductions And Other Tax Breaks

In return for lower tax rates, each candidate in varying degrees looks to limiting current tax benefits as part of the "quid pro quo." Benefits that have been in the spotlight include:

Mortgage interest deduction. Interest on mortgage debt up to $1.1 million secured by a principal residence and second residences is currently deductible.

Obama

Obama has proposed to limit the mortgage interest deduction indirectly by limiting the benefit of all itemized deductions taken by higher-income individuals.

Romney

Romney has suggested eliminating the ability of higher-income taxpayers from deducting mortgage interest on second homes, but without defining "higher-income."

Charitable deductions. Charitable contributions are deductible as an itemized deduction generally up to 50 percent of adjusted gross income.

Romney

Romney has hinted that he would be open to limiting the tax benefits from charitable deductions for higher-income taxpayers.

Obama

Obama has proposed to reduce the benefit through an overall limitation on itemized deductions for higher-income individuals.

IMPACT. *Charities are concerned that eliminating deductions for charitable contributions would depress future giving. The original Pease limitation excluded both medical expenses and charitable deductions from its reach, unlike these latest reform proposals.*

Municipal bond interest. Most municipal bond interest is currently exempt from federal income tax.

Obama

Obama would limit the exclusion of municipal bond interest for higher-income taxpayers.

Romney

Romney would tax some portion of this otherwise tax-exempt interest from municipal bonds based upon income level.

BUSINESSES: IMMEDIATE IMPACT

Proposals from both candidates to lower the corporate tax rates have made the headlines over

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the past six months but any changes to those rates likely will not take place until 2014 at the earliest. Instead, for 2013 the spotlight is expected to be on enhancements and extensions of certain stimulus measures.

Code Sec. 179 Expensing

Under current law, the Code Sec. 179 dollar and investment limits are $139,000 and $560,000, respectively (as adjusted for inflation). Off-the-shelf computer software is qualifying property if placed in service before 2013. In 2013, these amounts would sunset dramatically, down to $25,000/$200,000 respectively.

Romney

Romney has not addressed extending Code Sec. 179 dollar and investment limits.

Obama

Obama has not addressed Code Sec. 179 expensing.

> **COMMENT.** *The Job Protection and Recession Prevention Act as passed by the House would provide for Code Sec. 179 dollar and investment limits of $100,000 and $400,000, respectively, (indexed for inflation) for tax years beginning after December 31, 2012. The Middle Class Tax Cut Bill as passed by the Senate, provides for Code Sec. 179 dollar and investment limits of $250,000 and $800,000, respectively, for tax years beginning after December 31, 2012.*

Bonus Depreciation

The 2010 Tax Relief Act increased 50-percent bonus depreciation to 100-percent for qualified investments made after September 8, 2010 and before January 1, 2012 (before January 1, 2013 for certain long-lived property and transportation property). The 2010 Tax Relief Act also provided for 50-percent bonus depreciation for qualified property placed in service after December 31, 2011 and before January 1, 2013 (January 1, 2014 for certain long-lived property and transportation property).

Obama

Obama has proposed to extend 100 percent bonus depreciation through 2012.

Romney

Romney has discussed extending bonus depreciation but not specifically 100 percent bonus depreciation or 50 percent bonus depreciation.

Research Tax Credit

Originally enacted in 1981, the research tax credit was most recently extended by the 2010 Tax Relief Act through 2011. Taxpayers may compute their research tax credit using the alternative simplified credit method.

Romney

Romney has proposed to make permanent the research tax credit

Obama

Obama has proposed to make permanent the research tax credit and to increase the alternative simplified credit from 14 percent to 17 percent.

Code Sec. 199 Deduction

The Code Sec. 199 domestic production activities deduction allows qualified taxpayers to deduct an amount equal to the lesser of a phased-in percentage of taxable income (adjusted gross income for individuals) or qualified production activities income. A taxpayer's Code Sec. 199 deduction cannot exceed one-half (50 percent) of the W-2 wages paid by the taxpayer during the year.

Obama

Obama has proposed to disallow the Code Sec. 199 deduction for oil and gas producers and coal and other hard mineral fossil fuels.

Romney

Romney has not addressed the Code Sec. 199 deduction.

Carried Interest

General partners in private equity and hedge funds may be compensated by charging the limited partners a percentage of the fund's earnings, which is referred to as carried interest. Under current law, carried interest is characterized as capital gains.

Romney

Romney has not addressed the taxation of carried interest.

Obama

Obama has proposed to tax carried interest in investment partnerships as ordinary income with special rules for partners providing investment management services to partnerships.

Oil And Gas

A number of tax preferences are targeted to oil and gas producers, including percentage depletion for oil and gas wells, special expensing rules for intangible drilling and development costs, and more.

Obama

Obama has proposed to repeal the targeted oil and gas tax preferences.

Romney

Romney has not addressed the oil and gas tax preferences.

Tax Extenders

Many popular, but temporary, tax incentives for businesses expired at the end of 2011. They include (not an exhaustive list):

- Work Opportunity Tax Credit;
- Seven-year recovery for motorsports complexes;
- Modification of tax treatment for certain payments to controlling exempt organizations;
- Indian employment credit;
- American Samoa economic development credit;
- Railroad track maintenance credit;
- Mine rescue training credit;
- Employer wage credit for activated military reservists;
- 15-year recovery period for qualified leasehold, restaurant and retail improvement property;

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- Accelerated depreciation for business property on Indian reservations;
- Election to expense mine safety equipment;
- Special expensing rules for film and television productions;
- Treatment of certain dividends of regulated investment companies;
- Exceptions under subpart F for active financing income; and
- Look-through rule for related controlled foreign corporations.

Romney

Romney has not addressed many of the tax extenders but has discussed some unspecified "short-term" measures.

Obama

Obama has proposed to prune an unspecified number of tax extenders for businesses to offset the cost of reducing the corporate tax rate.

COMMENT. *Obama has also proposed to provide employers that hire long-term unemployed individuals (generally individuals who have been looking for work for more than six months) with a tax credit.*

COMMENT. *The Vow to Hire Heroes Act of 2011 enhanced the WOTC through 2012 by providing that a qualified veteran includes any veteran who is certified as being long-term unemployed or short-term unemployed. The Heroes Act also enhanced the WOTC for long-term and short-term unemployed veterans with service-connected disabilities. Additionally, the Heroes Act allows tax-exempt employers to claim a credit against their Federal Insurance Contribution Act (FICA) taxes for hiring a qualified veteran.*

Small Business Stock

The 2010 Tax Relief Act increased the 75 percent exclusion from tax for capital gains recognized on the sale of certain small business stock held for more than five years to 100 percent. The 100 percent exclusion expired after 2011.

Obama

Obama has proposed a permanent 100 percent exclusion from tax for capital gains realized on the sale of certain small business stock acquired after December 31, 2011 and held for more than five years.

Romney

Romney has not addressed the exclusion for small business stock.

Energy

The 2009 Recovery Act extended the placed in service date for wind energy facilities for the energy production tax credit to December 31, 2012.

Romney

Romney has indicated his opposition to extending the energy production tax credit for wind energy facilities.

Obama

Obama has proposed to extend the energy production tax credit for wind energy facilities.

BUSINESSES: 2014 AND BEYOND

Corporate tax reform, and business tax reform in general, has been raised by several Congressional committees and both candidates over the past year as a necessary long-range step in making businesses more innovative and competitive. Based upon the multilayered considerations involved, however, concrete changes are not anticipated until 2014 or later.

Corporate Tax Rates

The top corporate tax rate is 35 percent, having last changed from 34 percent in 1993 and 46 percent before that in 1986, but with lower rate brackets. Treasury officials have indicated that corporate tax rates must be coordinated with business tax rates in general and individual tax reform to the extent that income from business operations within pass-through entities must be put on an even playing field with businesses operated as regular "C" corporations.

Obama

Obama has proposed, in exchange for eliminating unspecified tax preferences, to provide businesses a top corporate tax rate of 28 percent with an effective 25 percent rate for manufacturing. A White House report has also suggested that large passthrough entities be taxed as C corporations to provide greater parity between similar business operations.

Romney

Romney has proposed to eventually reduce the top corporate tax rate to 25 percent. No specific plans in connection with 2013 rates have been discussed.

COMMENT. *During his acceptance speech at the Republican Party convention in Tampa, Romney promised to reduce taxes on small businesses as a means to spur job creation*

International Proposals

In recent years, Congress has fine-tuned a number of international tax provisions to curb perceived abuses and raise revenue. Most notably, the Foreign Account Tax Compliance Act (FATCA) has set in place a new regime of foreign account reporting.

Romney

Romney has proposed to transition the U.S. from a worldwide tax system to a territorial tax system. Romney has also proposed unspecified amendments to the Tax Code to prevent taxpayers from "gaming" the system and exporting jobs abroad during the transition to a territorial tax system.

Obama

Obama has proposed removing tax deductions for moving production overseas and providing new incentives for returning production to the U.S. Obama has also discussed a minimum tax on overseas profits. Income earned by subsidiaries of U.S. corporations operating abroad would be subject to an unspecified minimum rate of

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tax. Foreign income deferred to a lower tax jurisdiction, the administration explained, would be subject to immediate U.S. taxation up to the minimum tax rate with a foreign tax credit allowed for income taxes on that income paid to the host country. Additionally, Obama would tax currently the excess profits associated with shifting intangibles to lower tax jurisdictions and require that the deduction for interest expense attributable to overseas investment be delayed until the related income is taxed in the U.S.

Other Business Reforms

Obama has also proposed some broad-brush recommendations, such as:

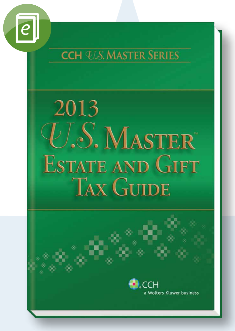
- Eliminating the last-in, first-out (LIFO) method of accounting;
- Reforming treatment of insurance industry and products; and
- Doubling the current deduction for start-up costs and allow cash accounting for businesses with up to $10 million in gross receipts.

SEQUESTRATION

The 2011 Budget Control Act imposes caps on the amount of money that can be spent through the annual appropriations process for the next 10 years. If the caps are exceeded, the Budget Control Act provides for a sequestration process, which is an automatic across-the-board cancellation of budgetary resources. For the first two fiscal years, the caps are on two categories of spending: security and nonsecurity. Both candidates have said that they would work to avoid this dire outcome.

COMMENT. *Congress cut the IRS budget for fiscal year (FY) 2011 by $350 million and has yet to approve a budget for the agency for FY 2012. Further cuts could occur to the IRS budget under sequestration for FY 2013.*

CCH Provides the Analysis You Can Trust



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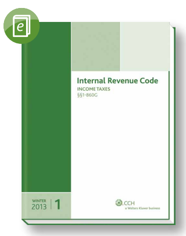

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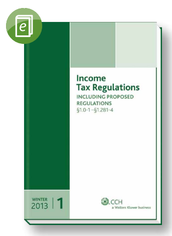

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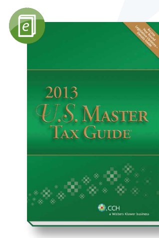

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