

JOHNSON, GASINK & BAXTER, LLP

# TWO THINGS CERTAIN®

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## **THE 2012 AMERICAN TAXPAYER RELIEF ACT: permanent changes for now...**

**By: Spencer M. Baxter, Esq.**

“Study the past if you would define the future,” *Confucius*

On January 2, 2013, President Obama signed The American Taxpayer Relief Act (ATRA), which is the most recent overhaul of our federal estate tax system. The passage of ATRA seems to have stabilized financial markets and alleviated fears of the US falling off the “Fiscal Cliff.”

### **Estate Tax Basics of the American Taxpayer Relief Act**

With the passage of ATRA, the most noticeable change is the increased estate tax exemption of \$5,250,000 in 2013. The estate tax exemption is indexed for inflation and will continue to increase in subsequent years. Additionally, the maximum estate tax rate increased from 35% to 40%. ATRA does provide a certain amount of relief for families with larger estates; but caution must still be advised when considering the potential for estate tax laws changes.

To better understand the current federal estate tax, and its potential to change, it's necessary to look at the history of the US estate tax system. History shows a recurrent theme of the government increasing the taxation of estates when it needs more revenue. The Stamp Act of 1797 first taxed estates to produce revenue to fund the costly undeclared naval war with France, sometimes known as the “Quasi-War”. The Revenue Act of 1862 reinstated a tax on estates to pay for the Civil War. The War Revenue Act of 1898 again provided estate taxation to fund the Spanish American War. The Revenue Act of 1916 brought about our current estate tax structure, which has remained unchanged in function since 1916. In just the past 12 years, the federal estate tax exemption has been adjusted eight different times, from a low of \$675,000 up to the current exemption of \$5,250,000. Although the US is currently winding down its military presence, there are still many other factors that seem to indicate an immediate need for increased government revenue (including Medicare, Medicaid and Social Security).

### **Does ATRA provide long term tax certainty?**

The question is not “**WILL Congress change the estate tax again?**” but rather “**WHEN will Congress change the estate tax again?**” The upcoming congressional decisions on the debt ceiling, the budget, and mandatory spending cuts, are sure to put everything that was so neatly packaged in ARTA at risk. The Senate Democrats have already had discussions on how their budget proposals will call for higher taxes on the key targets of big business and the wealthy.

With the ink on the American Taxpayer Relief Act barely dry, and the potential for many changes in the near future, many people feel helpless to effectively plan for their passing. Through appropriate tax planning strategies, estate taxes can be minimized or even eliminated, regardless of the year-to-year estate tax fluctuations. The key to proper estate planning is maintaining constant vigilance to review and make adjustments as laws or family circumstances change. The attorneys of Johnson, Gasink & Baxter, LLP are happy to discuss customized estate planning with people who want to maximize the efficiency and tax savings of their estate, regardless of changes in the laws.



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About the Author:

Spencer Baxter is an experienced problem solver who helps individuals and businesses achieve and protect their goals of prosperity, stability and growth through appropriate planning. Spencer takes great pride in making sure that his work for clients is always reliable, correct, and on time.

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