



GARRETT HEMANN ROBERTSON P.C.

## **Pulling Away From The Fiscal Cliff**

### **ESTATE TAX IMPLICATIONS OF THE AMERICAN TAXPAYER RELIEF ACT OF 2012**

**By Theresa M. Wade, Attorney at Law**



In last minute negotiations, Congress passed the American Taxpayer Relief Act of 2012 (also known as the “2012 Tax Relief Act,” or the “Act” in this article). Although the Act affected all tax structures, from income tax to gift tax to corporate tax to estate tax, this article addresses only the Act’s estate tax and gift tax implications.

In 2012, the federal estate tax exemption was \$5,120,000. Any individual dying in 2012 with an estate of less than \$5,120,000 had no federal estate tax liability. The Act made permanent that \$5,000,000 estate tax exemption for estates of decedents dying in 2013 forward, and it also indexed the amount for inflation. Unfortunately, the Act also increased the tax rate for estates in excess of \$5,000,000 to 40% from the previous rate of 35% for each dollar in excess of \$5,000,000. The State of Oregon continues to tax those estates in excess of \$1,000,000, at 10% for each dollar in excess of the \$1,000,000 threshold. The distinction between the Oregon and Federal tax rates is worth keeping in mind when it comes to estate planning.

The gift tax exemption remains at the current \$5,000,000 limit for 2013 and the foreseeable future. As with estates, the tax rate on gifts in excess of \$5,000,000 is increased from the current 35% to a 40% tax rate. These changes are in effect for estates and gifts beginning January 1, 2013. As in prior years, the State of Oregon does not tax gifts, so lifetime gifts would have no impact on Oregon tax structures.

With the enactment of these changes in the Internal Revenue Code and Treasury Regulations, estate plans that contemplated the use of tax planning with credit shelter trusts and marital trusts, as well as lifetime gifting plans, should be relatively unaffected.

If you have questions or would like to explore these options in your own estate plan, please contact Theresa M. Wade at [twade@ghrlawyers.com](mailto:twade@ghrlawyers.com) or call 503.581.1501.

