



## M Benefit Solutions® *Bank Strategies*

Total solutions for attracting, retaining, and rewarding top talent

Fourth Quarter 2012

THE BOTTOM LINE  
EXECUTIVE AND DIRECTOR BENEFITS AND BOLI

## THE AMERICAN TAXPAYER RELIEF ACT OF 2012

The Senate and House of Representatives on New Year's Day 2013 passed The American Taxpayer Relief Act of 2012 (the "Act"), averting an increase in income taxes on most taxpayers. President Obama signed the legislation January 2, 2013.

### TAX PROVISIONS

The Act will allow tax rates to rise on the nation's very highest earners while also extending dozens of tax cuts for individuals and businesses. The Act:

- Raises the top tax rate to 39.6% for married couples with taxable income of more than \$450,000 and single taxpayers with taxable income of more than \$400,000. These amounts will be indexed for inflation after 2013.
- Raises long-term capital gains and qualifying dividends tax rate to 20% (from 15%) for taxpayers in the 39.6% tax bracket for regular and alternative minimum tax (AMT).
- Permanently extends tax cuts from 2001 and 2003 for all other taxpayers. Marriage penalty relief was also permanently extended.

### FEATURED ARTICLES

- The American Taxpayer Relief Act of 2012
- 2013 Life Insurance Industry Outlook
- Qualified Pension Plan Limitations for 2013
- Reinstates the phaseout of personal exemptions and overall limitation on itemized deductions for married couples filing jointly with adjusted gross incomes over \$300,000 and single taxpayers with adjusted gross incomes over \$250,000.
- Raises the maximum estate and gift tax rate to 40% but keeps the current lifetime exemption amounts against the estate and gift taxes at \$5 million for individuals and \$10 million for couples, adjusted for inflation.
- Extends for five years (through 2018) the American Opportunity Tax Credit to pay for higher education.
- Provides for permanent AMT relief setting exemption amounts for 2012 and adjusting the exemption amounts for inflation going forward.
- Extends through 2013 the following, among others, individual tax benefits:

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the election to deduct state and local sales taxes, above the line deduction for qualified education expenses, relief from cancellation of debt income for principal residences, deduction for mortgage insurance premiums as interest, and tax-free distributions from IRA accounts for charitable purposes.

- Extends through 2013 certain business tax provisions that expired at the end of 2011 including, among others: the research credit, the new markets tax credit, the work opportunity tax credit, the Section 179 asset expensing at \$500,000, Section 1202 stock exclusion at 100%, and empowerment zone incentives.
- Extends 50% bonus depreciation through 2013.
- Extends through 2013 certain energy tax incentives that expired at the end of 2011 including: energy efficient credit for existing homes, alternative fuel vehicle refueling property credit, biodiesel and renewable diesel incentives, wind credit, energy efficient credit for new homes, and credit for manufacture of energy efficient appliances.

The payroll tax holiday that had reduced the employee's portion of the Social Security tax from 6.2% to 4.2% through the end of 2012 will not be extended.

#### HIGHLIGHTS OF ACT

- Bush-era tax cuts extended for most taxpayers
- Top income tax rate raised to 39.6%
- Capital gains and dividend tax rate raised to 20% from 15% for those subject to 39.6% rate
- Payroll tax holiday ended
- Phaseout of itemized deductions and personal exemptions reinstated for single taxpayers with AGI greater than \$250,000 and married couples with AGI greater than \$300,000
- Permanent AMT relief
- Extensions of various other tax relief provisions
- Automatic budget cuts postponed two months

## OTHER PROVISIONS

- Emergency unemployment insurance benefits extended for one year
- One-year extension of provisions to prevent doctors' payments from Medicare from being cut
- Postpones across-the-board budget cuts for two months
- Does not deal with questions pertaining to the raising of the debt limit ceiling

There are several pressing budget issues that will need to be addressed over the next three months. The fight to do so will likely be as ugly as the "fiscal cliff" fight, if not more so. Tax reform is likely to form part of the resolution of the fight and likely to be one of the year's most important political issues.

## THE NEXT FISCAL FIGHT

The American Taxpayer Relief Act of 2012 is an important piece of legislation insofar as it has settled income tax rates (for the moment). However, there are several pressing budget issues that will need to be addressed in the near-term.

The automatic across-the-board spending cuts (the so-called budget sequester) that were to go into effect on January 1, 2013, were postponed by the Act for two months. The United States reached its statutory debt ceiling at the end of 2012 and the Treasury Department is taking what it calls "extraordinary measures" to keep from breaching the ceiling, but those measures are unlikely to carry the country beyond the end of February. Finally, federal government operations are only funded through March 27, necessitating Congressional action to prevent a government shutdown thereafter.

With respect to these negotiations, the Republicans have stated they will use the threat of not raising the debt ceiling to once again force budget cuts as they

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did during the summer of 2011. President Obama, on the other hand, has stated that he absolutely will not have another debate with Congress over whether the country should pay its bills. Specifically, the President stated: “We can’t not pay bills that we’ve already incurred. If Congress refuses to give the United States government the ability to pay these bills on time, the consequences for the entire global economy would be catastrophic. Far worse than the impact of the fiscal cliff.”

The last debt limit ceiling fight led to a downgrade in the country’s credit rating, roiled stock markets, and brought the country to within days of default on its debts.

## 2013 TAX REFORM

There appears to be agreement from the administration and members of Congress in both parties that there is a need to overhaul the federal tax code. In a statement supporting the Act, House Ways and Means Committee Chairman, Dave Camp (R-MI) affirmed his intention to have the Ways and Means Committee consider fundamental tax reform in 2013. Senate Finance Committee Chairman Max Baucus (D-MT) said the Act will help make tax reform more likely in 2013.

With increases in tax rates now off the table and with President Obama stating shortly after passage of the

2013 is likely to be a busy year in tax reform. M Benefit Solutions will continue to closely monitor and report on significant proposals and legislative actions.

Act in the House that future efforts to reduce the deficit will not rely solely on spending cuts, the parties are likely to find tax reform one of the few ways to accommodate competing priorities.

Prominent issues in tax reform likely will include corporate tax rates and deductions. The President’s corporate tax reform plan outlined last year shows an interest in lowering corporate tax rates and reducing eligible deductions and income exclusions. Individual tax reform is unlikely to include changing tax rates. However, limitations on so-called “tax expenditures” such as income exclusions on retirement savings may form part of the tax reform discussion. This could include changes to the tax treatment of 401(k) plans that have already been discussed.

### Tax Treatment of 401(k) Plans

Three proposals that have been made to change the tax treatment of 401(k) plans:

- Under current rules combined employer and employee contributions are capped at \$50,000 or 100% of an employee’s compensation per year. The National Commissions on Fiscal Responsibil-

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## UPCOMING EVENT: 2013 ICBA NATIONAL CONVENTION AND TECHWORLD

MARCH 11–15, 2013

WYNN LAS VEGAS AND ENCORE HOTEL; LAS VEGAS, NV

M Benefit Solutions - Bank Strategies is once again proud to be a sponsor and exhibitor at the 2013 ICBA National Convention and Techworld. Please join us at **Booth 259**:

- For free ice cream
- Enter to win an Amazon Kindle Fire
- Pick up your bank’s customized BOLI Empowerment Page

For more information on the convention, please visit <http://www.icba.org/convention2013/>

We look forward to seeing you in Las Vegas.

ity and Reform proposed a limit on employee/ employer contributions to 20% of an employee's annual compensation, not to exceed \$20,000, whichever is less.

- A proposal made by *A Proposal to Restructure Retirement Savings Incentives in a Weak Economy with Long-Term Deficits* (by William Gale, Brookings Institution) was taken up by the Senate Finance Committee in a hearing in September 2011. Under the proposal, both employee and employer contributions to 401(k) and other qualified plans would no longer be excluded from income subject to current taxation and contributions to IRAs would no longer be tax-deductible. Instead, all qualified employer and employee contributions would be eligible for a flat-rate refundable tax credit given to the employee, and the credit would be deposited directly into the retirement savings account.
- A third option, the tax exclusion limit, would affect only workers in the top income tax brackets, by capping their tax benefit at 28%. This proposal would require those employees in the 35% tax bracket to pay 7% tax on their 401(k) contributions.

Of course, changes to the tax treatment of 401(k) plans could significantly impact the value of executives' nonqualified deferred compensation benefits. M Benefit Solutions will closely monitor proposals and legislative actions in this area.



### TAX UPDATE—THE NEW MEDICARE TAXES

In November, M Benefit Solutions - Bank Strategies published a summary of the changes for higher-income taxpayers in 2013. To review the Tax Update in its entirety, visit our website at [www.mben.com/bank](http://www.mben.com/bank).

### RECENT EVENT

#### OBA/WBA NORTHWEST BANK EXECUTIVE CONFERENCE

M Benefit Solutions was proud to sponsor the recent OBA/WBA Northwest Bank Executive Conference at the Fairmont Olympic Hotel in Seattle December 2–4, 2012.

## 2013 LIFE INSURANCE INDUSTRY OUTLOOK

### FITCH

Fitch Ratings stated in a report that its credit outlook for the U.S. life insurance industry remains stable for 2013, which reflects the industry's strong balance sheet fundamentals and improved liquidity profile. Fitch said the sound financial position of the industry has somewhat mitigated Fitch's concerns over the challenging macroeconomic environment, which continues to pressure operating fundamentals.

Fitch stated the industry has improved capitalization and the quality of assets in investment portfolios following the financial crisis. Persistent low interest rates will limit earnings capacity for life insurers but will not have a material negative impact on industry capital levels in 2013.

### S&P

Standard & Poor's stated that its credit outlook on the North American life insurance industry is cautious as macroeconomic risks could cause downgrades to outpace upgrades in 2013. In its Industry Economic and Ratings Outlook report, S&P said that while the industry remains well capitalized, it expects a weak global economy, persistent low interest rates, and intense competition will dampen revenue growth and

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limit the potential for higher operating margins at life insurers. S&P said its economists have placed the probability of recession in 2013 at 20–25%. On a positive note, S&P said strong capital and liquidity support the investment-grade ratings on the majority of its rated life insurers.

S&P mentioned that a downgrade of the U.S. sovereign credit rating, which S&P downgraded to “AA+” from “AAA” in August 2011, could result in downgrades at the eight life insurance groups that currently share the same financial strength rating.



## QUALIFIED PENSION PLAN LIMITATIONS FOR 2013

The Internal Revenue Service recently announced cost-of-living and statutory dollar limitations for qualified pension plans for 2013.

PROVISION	2012 LIMIT	2013 LIMIT
<b>401(k) Elective Deferral Limit</b>		
Annual employee contribution to 401(k) plans	\$17,000	\$17,500
Additional 401(k) contributions for employees age 50 or over	\$5,500	\$5,500
<b>Maximum Compensation Limit</b>		
The amount of annual compensation that can be taken into account when determining plan benefits	\$250,000	\$255,000
<b>Defined Benefit Limit</b>		
The maximum annual straight-life benefit at age 65 (not to exceed 100% of average annual compensation)	\$200,000	\$205,000
<b>Defined Contribution Limit</b>		
The maximum annual contribution to a defined contribution plan (not to exceed 100% of compensation)	\$50,000	\$51,000
<b>Highly Compensated Employee Definition</b>		
Dollar limit on who is considered a highly compensated employee	\$115,000	\$115,000

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## SOCIAL SECURITY FACTS

The combined tax rate for Social Security and Medicare for an employee is 7.65%. The Social Security portion (OASDI) is 6.20%\* on earnings up to the applicable taxable maximum amount (see table below).

The Medicare portion (HI) is 1.45% on all earnings. Beginning in 2013, there is an additional 0.9% Medicare tax on all earnings above certain threshold amounts (\$250,000 in wages for married filing jointly and \$200,000 for single taxpayers).

TAX RATES	2012	2013
Employee	5.65%*	7.65%
Self-Employed	13.30%*	15.30%

MAXIMUM TAXABLE EARNINGS	2012	2013
Social Security (OASDI only)	\$110,100	\$113,700
Medicare (HI only)	No Limit	No Limit

*\*The Middle Class Tax Relief and Job Creation Act of 2012 extended a reduction in the Social Security payroll tax rate to 4.2% through the end of 2012. This temporary reduction expired at the end of December 2012.*

**Important Disclosures:** This information is taken from sources, which we believe to be reliable, but there is no guarantee as to its accuracy. This material is intended for informational purposes only and should not be construed as legal or tax advice and is not intended to replace the advice of a qualified attorney, tax advisor or plan provider. This document may contain privileged/confidential information.



## ADVISOR FIRMS

M Benefit Solutions - Bank Strategies is structured to provide our clients with consistent nationwide coverage. We have identified several Advisors with extensive experience in bank executive and director benefits and BOLI to provide consulting services to clients nationwide.\*

Distributed throughout the country, these Advisors work interactively with M Benefit Solutions and bank clients to design programs which meet each bank's specific needs and to ensure high quality administrative and compliance services.

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\*These Advisors are associated with our Broker/Dealer, M Holdings Securities, Inc.



# ABOUT M BENEFIT SOLUTIONS - BANK STRATEGIES

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