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FROM THE CHAIR

By Christine Gale, Esq.
gale@fbmgg.com

Christine Gale, Esq.

January was a wonderful month for the Pennsylvania Bar Association Family Law Section. The Annual Winter Meeting, held Jan. 18-20, was a resounding success. We had a great turnout of attorneys from 31 different counties. Counties spanning the northern, eastern, southern, central and western portions of the state joined together for a unified and collegial workshop. Sixteen judges attended and a number of them served on the various panels.

The accomplished author **Charles Gibbons** led a panel with **Judge Kim Eaton** and **Judge Richard Lewis** regarding evidentiary issues in family law trials. He offered great insights. We also had a highly informative panel with **Frederick Frank** and **David Hofstein,** along with **Superior Court Judge Jack Panella,** enlightening us on appellate matters.

The breakout sessions were extremely meaty, dealing with Marcellus Shale, executive compensation, technology and ethics, and complex custody evaluation matters. We were also educated as to case law updates, legislation updates and rules updates.

BNY Mellon and **CBIZ** were once again sponsors for our meeting and their representatives were on hand to answer questions and consult regarding our clients.

It was a great turnout and a very educational and fun time for all in attendance.

I also had the privilege of representing the Family Law Section for the Pennsylvania Bar Association's Midyear Meeting in St. Maarten, Jan. 30-Feb. 3. I had the honor to speak on a panel on "Hot Tips in Civil Litigation," with my contribution focusing on family law matters. It was truly a highlight in my career as I appeared on a panel with **Justice Max Baer**

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Christine Gale is a Shareholder with the Pittsburgh firm of Frank Gale Bails Murcko and Pocrass PC; Chair, PBA Family Law Section; three prior terms, member of Council ACBA Family Law Section; Co-Author Pennsylvania Family Practice Manual with Frederick N. Frank, Esq., in 1990; authored Tax Aspects of Divorce in Pennsylvania in 1993; and currently serves on the Board of Directors for Smokefree Pennsylvania.

GUIDANCE ON AMERICAN TAXPAYER RELIEF ACT OF 2012 BY MITCHELL E. BENSON, CPA, MT, CFF; DONNA M. PIRONTI, CPA, MSA; AND ADAM POUTASSE, CPA, MAcc

The year 2012 ended without a final deal to address the "fiscal cliff." Many Americans anticipated large federal tax increases for 2013. A compromise was struck in the Senate and passed by the House on Jan. 2, with the American Taxpayer Relief Act of 2012. The tax changes affect individuals, businesses, and estates and trusts. Below are some of the major provisions now in place for taxpayers.

Individual Tax Brackets

The tax brackets add a new tax rate of 39.6 percent for the following income thresholds:

Tax Filing Status	Income Threshold
Single	$400,000
Head of household	$425,000
Married filing jointly	$450,000
Married filing separately	$225,000

The tax brackets leading up to the new rate are made "permanent" and will adjust each year for inflation. There are now seven individual tax brackets for 2013 and they are as follows:

Married Filing Jointly	
If Taxable Income Is:	*The Tax Is:*
Not over $17,850	10% of the taxable income
Over $17,850 but not over $72,500	$1,785 plus 15% of the excess over $17,850
Over $72,500 but not over $146,400	$9,982.50 plus 25% of the excess over $72,500
Over $146,400 but not over $223,050	$28,457.50 plus 28% of the excess over $146,400
Over $223,050 but not over $398,350	$49,919.50 plus 33% of the excess over $223,050
Over $398,350 but not over $450,000	$107,768.50 plus 35% of the excess over $398,350
Over $450,000	$125,846 plus 39.6% of the excess over $450,000

Married Filing Separately	
If Taxable Income Is:	*The Tax Is:*
Not over $8,925	10% of the taxable income
Over $8,925 but not over $36,250	$892.50 plus 15% of the excess over $8,925
Over $36,250 but not over $73,200	$4,991.25 plus 25% of the excess over $36,250
Over $73,200 but not over $111,525	$14,228.75 plus 28% of the excess over $73,200
Over $111,525 but not over $199,175	$24,959.75 plus 33% of the excess over $111,525
Over $199,175 but not over $225,000	$53,884.25 plus 35% of the excess over $199,175
Over $225,000	$62,923 plus 39.6% of the excess over $225,000

Single	
If Taxable Income Is:	*The Tax Is:*
Not over $8,925	10% of the taxable income
Over $8,925 but not over $36,250	$892.50 plus 15% of the excess over $8,925
Over $36,250 but not over $87,850	$4,991.25 plus 25% of the excess over $36,250
Over $87,850 but not over $183,250	$17,891.25 plus 28% of the excess over $87,850
Over $183,250 but not over $398,350	$44,603.25 plus 33% of the excess over $183,250
Over $398,350 but not over $400,000	$115,586.25 plus 35% of the excess over $398,350
Over $400,000	$116,163.75 plus 39.6% of the excess over $400,000

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Mitchell E. Benson, CPA, MT, CFF, is a Founding Partner in the Bala Cynwyd accounting firm of Savran Benson LLP. He specializes in matrimonial litigation support, real estate tax planning and compliance, and tax and consulting for individuals and closely held businesses. mbenson@savranbenson.com.

Donna M. Pironti, CPA, MSA, specializes in matrimonial litigation support, tax consulting and compliance, and small business accounting. dpironti@savranbenson.com.

Adam M. Poutasse, CPA, MAcc, specializes in tax consulting and compliance for real estate professionals, high net worth individuals and families, and individuals working overseas. apoutasse@sevrannenson.com.

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Head of Household	
If Taxable Income Is:	*The Tax Is:*
Not over $12,750	10% of the taxable income
Over $12,750 but not over $48,600	$1,275 plus 15% of the excess over $12,750
Over $48,600 but not over $125,450	$6,652.50 plus 25% of the excess over $48,600
Over $125,450 but not over $203,150	$25,865 plus 28% of the excess over $125,450
Over $203,150 but not over $398,350	$47,621 plus 33% of the excess over $203,150
Over $398,350 but not over $425,000	$112,037 plus 35% of the excess over $398,350
Over $425,000	$121,394.50 plus 39.6% of the excess over $425,000

Notice that the 35 percent tax bracket is all but eliminated for a single filer, and only covers about $50,000 of income for joint filers.

Payroll Tax Holiday (expired at the end of 2012)

In 2011 and 2012 employees enjoyed the "payroll tax holiday" whereby the social security tax was only 4.2 percent for employees as opposed to the usual 6.2 percent. But in 2013 this reduction lapsed and employees will once again pay the 6.2 percent that employers are paying. For 2013 the maximum social security tax is $7,049.40 as the earned income cap for social security taxes is $113,700. This is an increase of over $2,400 from 2012.

Marriage Penalty Relief

The act did extend the marriage penalty relief. If there had not been an agreement, for married couples the 2013 standard deduction was set to be 167 percent of the single amount for married couples. The standard deduction for married couples was reinstated at 200 percent of the single amount. In addition, the act continues to extend the 15 percent tax bracket for married filing jointly to twice that of the single filer.

Standard and Itemized Deductions

Taxpayers are allowed either the standard or itemized deduction to reduce Adjusted Gross Income (AGI) to arrive at taxable income. Standard deduction amounts for 2013 for specific filing statuses are as follows:

Tax Filing Status	Standard Deduction
Single	$6,100
Head of household	$8,950
Married filing jointly	$12,200
Married filing separately	$6,100

The act reinstates the "Pease" provision that limits itemized deductions beginning in 2013. Taxpayers have enjoyed no limitations on itemized deductions for the past three years. The phase-out applies to taxpayers with AGI over the following thresholds:

Tax Filing Status	Income Threshold
Single	$250,000
Head of household	$275,000
Married filing jointly	$300,000
Married filing separately	$150,000

The itemized deduction amount is reduced by 3 percent by which the taxpayer's income exceeds the above threshold. For example, if the single taxpayer earns $1,000,000, her itemized deductions are reduced by $22,500 ($1,000,000-$250,000 = $750,000 x 3 percent = $22,500). The phase-out is capped at 80 percent of the deductions. The deductions (taxes, medical, charitable donations, interest expense, etc.) are all treated the same in the phase-out. This provision can significantly increase taxable income for those above the threshold. In the above example, assuming a 39.6 percent incremental rate, the additional tax is $8,910. These threshold values will increase each year for inflation. In addition to the phase-out several specific deductions were adjusted as well. The medical deduction threshold above AGI increased from 7.5 percent to 10 percent. The act also extended the state and local sales tax deduction in lieu of state and local taxes and mortgage insurance premiums are again allowed as interest expense.

Personal Exemptions

Personal exemptions also reduce AGI to arrive at taxable income. For 2013 the personal exemption amount is $3,900. However, phase-outs were reinstated in 2013 for taxpayers with AGI over the following thresholds:

Tax Filing Status	AGI Threshold	AGI Complete Phase-out
Single	$250,000	$372,500
Head of household	$275,000	$397,500
Married filing jointly	$300,000	$422,500
Married filing separately	$150,000	$211,250

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These thresholds have been raised from the previous limitation setting that were in place and will adjust each year for inflation. The phase-out reduces personal exemptions by 2 percent for each $2,500 that income exceeds the threshold. The exemptions are completely eliminated once AGI exceeds the threshold. Each filing status' threshold begins in the 33 percent tax bracket. Married filing joint and married filing separately phase-out in the 35 percent bracket, while the single and head of household status' phase-out in the 33 percent bracket. If an individual is in the 39.6 percent tax bracket they will not be able to claim any personal exemptions.

Capital Gains and Dividends Tax

Rates for qualified dividends and long-term gains may increase from 15 percent to 20 percent depending on filing status and AGI. Nonqualified dividends and short-term gains will continue to be taxed at ordinary rates. The qualified dividends and long-term capital gains will be taxed at 20 percent if the income would otherwise be subject to the highest tax bracket. These brackets begin at the following thresholds:

Tax Filing Status	AGI Threshold
Single	$400,000
Head of household	$425,000
Married filing jointly	$450,000

Since the higher rate applies only if the qualified income would be in the highest bracket, it is entirely possible for a taxpayer to have some long-term capital gains and qualified dividends taxed at 15 percent, while the remainder above the threshold is taxed at 20 percent. For those in the 10 percent and 15 percent tax brackets, the zero percent rate on capital gains and qualified dividends is retained.

Alternative Minimum Tax (AMT)

The alternative minimum tax applies a flat tax rate to income (after adding back certain deductions) in excess of an exemption amount. The largest deduction added back for AMT purposes is the state and local taxes. The original exemption amount was not indexed for inflation and congress had been passing an annual adjustment "patch" to prevent this flat tax from applying to a large portion of more moderate income earners. The act finally puts a "permanent patch" into place, which allows the AMT exemption to be indexed for inflation. The exemptions for 2012 will be $78,750 for married filing joint and $50,600 for individuals filing single, and for 2013 they are $80,800 for joint filers and $51,900 for single filers.

Extension of Credits and Other Individual Tax Items

The act extended the following three tax credits for five years at 2012 levels: the Child Credit of $1,000 (this extension avoids returning to a credit of $500), College Tuition Credits (also referred to as the American Opportunity Tax Credits) and Earned Income Tax Credits. The act also extends the benefits for the long-term unemployed for one year, the exclusion of employer-provided educational assistance up to $5,250, the employer-provided child care credit, certain energy credits that expired in 2011 through 2013, the child and dependent care credit cap of $3,000 for a child and $6,000 for more than one child, the teacher's classroom expense deduction of $250 and the exclusion of cancellation of indebtedness on principal residence. In addition, it also expands the adoption credit.

Business Tax

For 2013, credits for research and development, new energy and work opportunity are extended for businesses. The act also allows for the continuation of 50 percent bonus depreciation on qualified property and equipment. The Section 179 small business depreciation has a $500,000 dollar limit for 2012 and 2013 and continues to include off-the-shelf software.

Trusts and Estate Tax

The estate and gift tax rate increased from 35 percent to 40 percent under the new act. Very unexpectedly, the $5 million estate and gift tax exemption was continued. This exemption along with the portability of the exemption between spouses enables a couple to gift away or bequeath $10 million in assets. These amounts will be indexed upwards for inflation from the 2012 levels ($5.12 million for individuals and $10.24 million for couples). The portability of the estate tax to a spouse was made permanent.

Trusts and estates which file income tax returns are now subject to five tax brackets — 15 percent, 25 percent, 28 percent, 33 percent, and 39.6 percent. Each tax bracket is $3,250 or less, except the marginal rate of 39.6 percent on income in excess of approximately $11,950 for 2013 (if income stays in the trust). The gift tax annual exclusion increases in 2013 to $14,000 for individuals and $28,000 for a married couple.

Conclusion

These tax changes are significant and have both positive and negative consequences to many taxpayers. Since many of the provisions have thresholds and phase-out provisions, even simple tax projections have become complex. The act must be reviewed carefully by practitioners to determine the financial impact on their clients for the current effect and to plan for the future.