

# Planned Giving:

## Planning for Uncertainty from a Donor's-Eye View

Presented by  
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DEFINING SUCCESS TOGETHER

# A Little Less Uncertainty

## American Taxpayer Relief Act of 2012 (ATRA)

- Alternative Minimum Tax
- Personal Income Tax



Form **1040** Department of the Treasury—Internal Revenue Service  
**U.S. Individual Income Tax Return** (99) **2012** OMB No. 1545-0074 IRS Use Only—Do not write or staple in this space.

For the year Jan. 1–Dec. 31, 2012, or other tax year beginning

Your first name and initial \_\_\_\_\_ Last name \_\_\_\_\_, 2012, ending \_\_\_\_\_, 20

If a joint return, spouse's first name and initial \_\_\_\_\_ Last name \_\_\_\_\_

Home address (number and street). If you have a P.O. box, see instructions. \_\_\_\_\_ Apt. no. \_\_\_\_\_

City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions). \_\_\_\_\_

See separate instructions.  
Your social security number \_\_\_\_\_  
Spouse's social security number \_\_\_\_\_

▲ Make sure the SSN(s) above and on line 6c are correct.  
**Presidential Election Campaign**  
Check here if you, or your spouse if filing \_\_\_\_\_

# A Little Less Uncertainty

## 2012 vs. 2013 – Married Filing Jointly

2012	2013
10% on taxable income from \$0 to \$17,400, plus	10% on taxable income from \$0 to \$17,850, plus
15% on taxable income over \$17,400 to \$70,700, plus	15% on taxable income over \$17,850 to \$72,500, plus
25% on taxable income over \$70,700 to \$142,700, plus	25% on taxable income over \$72,500 to \$146,400, plus
28% on taxable income over \$142,700 to \$217,450, plus	28% on taxable income over \$146,400 to \$223,050, plus
33% on taxable income over \$217,450 to \$388,350, plus	33% on taxable income over \$223,050 to \$398,350, plus
35% on taxable income over \$388,350.	35% on taxable income over \$398,350 to \$450,000, plus
	39.6% on taxable income over \$450,000

# A Little Less Uncertainty

## 2012 vs. 2013 – Single Filer

2012	2013
10% on taxable income from \$0 to \$8,700, plus	10% on taxable income from \$0 to \$8,925, plus
15% on taxable income over \$8,700 to \$35,350, plus	15% on taxable income over \$8,925 to \$36,250, plus
25% on taxable income over \$35,350 to \$85,650, plus	25% on taxable income over \$36,250 to \$87,850, plus
28% on taxable income over \$85,650 to \$178,650, plus	28% on taxable income over \$87,850 to \$183,250, plus
33% on taxable income over \$178,650 to \$388,350, plus	33% on taxable income over \$183,250 to \$398,350, plus
35% on taxable income over \$388,350	35% on taxable income over \$398,350 to \$400,000, plus
	39.6% on taxable income over \$400,000

# A Little Less Uncertainty

## 2012 vs. 2013 – Married Filing Separately

2012	2013
10% on taxable income from \$0 to \$8,700, plus	10% on taxable income from \$0 to \$8,925, plus
15% on taxable income over \$8,700 to \$35,350, plus	15% on taxable income over \$8,925 to \$36,250, plus
25% on taxable income over \$35,350 to \$71,350, plus	25% on taxable income over \$36,250 to \$73,200, plus
33% on taxable income over \$108,725 to \$194,175, plus	28% on taxable income over \$73,200 to \$111,525, plus
35% on taxable income over \$194,175.	33% on taxable income over \$111,525 to \$199,175, plus
	35% on taxable income over \$199,175 to \$225,000, plus
	39.6% on taxable income over \$225,000

# A Little Less Uncertainty

## Deductions

- Charitable Deduction
- Mortgage Interest Deduction
- State and Local Sales Tax Deduction
- Pease Amendment
- Phase-out of personal exemption

### with the following AGI amounts:

Married Filing Jointly	\$300,000 - \$422,500
Single Filers	\$250,000 - \$372,500
Married Filing Separately	\$150,000 - \$211,250

# A Little Less Uncertainty

## Roth Conversions

### Pre-ATRA

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- IRAs
- Limited In-Plan Conversions

### Post-ATRA

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- IRAs
- Broader In-Plan Conversions

# A Little Less Uncertainty

## Dividend and Capital Gains Tax Rates

**2012**

Tax Rate	Long Term Capital Gains Tax Rate	Qualified Dividend Tax Rate
10%	0%	0%
15%	0%	0%
25%	15%	15%
28%	15%	15%
33%	15%	15%
35%	15%	15%

**2013**

Tax Rate	Long Term Capital Gains Tax Rate	Qualified Dividend Tax Rate
10%	0%	0%
15%	0%	0%
25%	15%	15%
28%	15%	15%
33%	15%	15%
35%	15%	15%
39.6%	20%	20%



# A Little Less Uncertainty

## Income Taxation of Trusts and Estates

- All non-grantor trusts and estates with undistributed income of \$11,950 or more are subject to the higher 20% capital gains rate, and the higher 39.6% income tax rate
- 3.8% NIIT also applies for an effective capital gains rate of 23.8%

## Transfer Tax

- Single Graduated Rate Schedule for Gift and Estate Tax
  - “Permanent” \$5 million lifetime gift tax or estate tax exemption
  - Indexed for inflation – 2013 = \$5,250,000
  - Maximum gift and estate tax rate increased to 40% from 35%

# A Little Less Uncertainty

## Transfer Tax – Cont'd:

- Generation Skipping Transfer Tax
  - “Permanent” \$5 million GST Exemption
  - Indexed for inflation – 2013 = \$5,250,000
  - Increase in flat tax rate from 35% to 40%

# A Little Less Uncertainty

## Social Security Tax

- Social Security Tax rate increase from 6.2% from 4.2% for employees effective January 1, 2013
- Applies to salaries up to \$113,700, up from \$110,100
- Largest possible increase will be \$2,425.20 for a single wage-earner
- Consistent 6.2% rate for employer

# A Little Less Uncertainty

## Medicare Tax

- No limit to wages, compensation or self-employment income subject to Medicare Tax
- All wages, compensation and self-employment income subject to 1.45% tax
- New Additional 0.9% Medicare Tax

for wages, compensation and self-employment income in excess of:

Married Filing Jointly	\$250,000
Single Filer	\$200,000
Married Filing Separately	\$125,000

# A Little Less Uncertainty

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Net  
Investment  
Income  
Tax (NIIT)

Effective first tax year beginning January 1, 2013

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In addition to the 0.9% Additional Medicare Tax

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Applies to certain investments of individuals, estates and trusts

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Does not apply to investment income of corporations, partnerships, limited liability companies or other business entities

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Individuals are subject to the NIIT if they have any amount of "Net Investment Income and also have modified adjusted gross income over the following thresholds:

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# A Little Less Uncertainty

Net Investment  
Income Tax –  
Cont'd:

Individuals are subject to the NIIT if they have any amount of "Net Investment Income" and also have modified adjusted gross income over the following thresholds:

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Married Filing Jointly	\$250,000
Single Filers	\$200,000
Married Filing Separately	\$125,000

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# Lingering Uncertainty

- State Capital Gains Tax?
- Increase in State Estate Tax?
- Federal Tax Code Reform?
- Targeted Changes Federal Tax Code?
  - Personal Income Tax
    - Charitable Deduction
    - Mortgage Interest Deduction
    - State and Local Sales Tax Deduction
  - Corporate Income Tax
- Volatility in Securities and Real Estate Markets?
- Defense of Marriage Act (DOMA)?

# Lingering Uncertainty

## On Borrowed Time for Certain Estate Planning Techniques?

- GRATs
- Sales of Appreciating Assets to Grantor Trusts
- Valuation Discounting



# Planned Giving Moving Forward

- IRA Charitable Rollover for 2013
- Roth Conversions
- Alternate Beneficiary for Defined Value Formula Gifting Clauses? (yes, this one is esoteric ...)
- Income Producing Lifetime Gifts?
  - Charitable Remainder Trusts (CRT)
    - Life Insurance as Trust Asset?
    - Gift of Annuity or Unitrust Interest?
    - Early Termination?
  - Charitable Gift Annuity
    - Financial Stability of Reserve Fund of Issuing Educational Institution?

# Planned Giving Moving Forward

- Income Producing Lifetime Gifts – Cont'd:
  - Charitable Gift Annuity – Cont'd:
    - Fund with Closely-Held Stock?
    - Donate Annuity Interest?
    - Fund Higher Education Through Deferred Charitable Gift Annuity?
    - Donor Retain Right to Revoke Annuity Interest?
  - Charitable Pooled Income Fund (PIF)
    - Irrevocable Designation of Issuing Educational Institution as Recipient of Partial Income Interest?
    - Testamentary Gift to PIF – Name Donor's Living Children as Income Recipients?
    - Donor Retain Right to Revoke Income Interest?

# Planned Giving Moving Forward

Income  
Reducing Gifts

Charitable Lead Trust  
(CLT)

More Complicated Than CRTs –  
Used Less Often

Grantor Trust?

“Zero-Out”?

Outright Gifts of  
Income Producing  
Assets

Dividend Paying Stocks

Income-Producing Real Property

Educational  
Institution Create  
Wholly-Owned  
LLC?

Receive Real Property

Minimize Liabilities

# Planned Giving Moving Forward

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Defer Gifting  
Until Death?

Testamentary Split-Interest  
Trusts?

CRTs

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CLTs

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Gift All Assets to  
Educational Institution/Use  
Wealth Replacement?

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Specific Value of Assets to  
Family, Excess to  
Educational Institution?

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Retirement Assets

Tax Efficient Assets to  
Give to Fund Planned  
Giving

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Life Estate Agreements

Combine with Charitable  
Gift Annuity?

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# Planned Giving Moving Forward

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Life Insurance –  
Attractive Gift  
Vehicle?

Who Obtains Policy?

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Who Owns Policy?

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Who Pays Policy Premiums?

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Value of Gift?

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Estate Taxation?

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Income Taxation?

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Disclaimers?

Adds Flexibility

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Must Be Drafted into Donor's Will or Living Trust

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# Planned Giving Moving Forward

- Limited Powers of Appointment?
  - Beneficiary of Trust Directs Trust Property to Educational Institution
  - Scope of Power
  - Must Be Drafted into Gift Trust or Will or Living Trust
- Trustee Power to Distribute to Educational Institution or Make Distributions to Beneficiaries for Such Purpose?
  - Trustee of Trust Directs Trust Property to Educational Institution
  - Must Be Drafted into Gift Trust or Will or Living Trust

# Planned Giving Moving Forward

Wealth  
Replacement

Life Insurance Trust

Leveraged Gifting

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Dynastic Planning  
Opportunity

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Creditor Protection

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Outright Ownership of  
Life Insurance by  
Donor's Children

Less Complicated and Costly

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Less Control

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No Creditor Protection

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No Option for Dynastic  
Planning

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# Washington Marriage Equality Act

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Are Donors  
Legally  
Married?

Opt-out of Same-Sex Domestic Partnership?

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Automatic Conversion to Civil Marriage as of June 30, 2014

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Opposite-Sex Domestic Partnerships

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Washington  
Estate Tax

Marital Deduction

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Community  
Property  
Issues

Authority to Gift

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Gift Documentation/Consents

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Update Gift Acceptance Policies?

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