

PLANNING UNDER THE 2015 TAX EXTENDERS LEGISLATION

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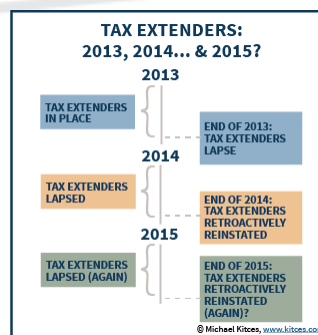
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A RISING ERA OF TAX STABILITY?

- Protecting Americans from Tax Hikes (PATH) Act of 2015
 - Reinstates “tax extenders”
 - Provisions *not* made permanent under ATRA 2012
 - A growing number of rules that have been lapsed and reinstated and extended and lapsed again
 - Typically only taken up “at the last minute” in December, making it difficult to do proactive planning!




A RISING ERA OF TAX STABILITY?

- (PATH) Act of 2015
 - Unlike prior “tax extenders” legislation, this time many key provisions are extended and *permanent!*

TAX EXTENDERS UNDER THE PATH ACT OF 2015					
MADE PERMANENT	Qualified Charitable Distributions From IRA To Charity	State & Local Sales Tax Deduction	American Opportunity Tax Credit	Enhanced Child Tax Credit	Section 179 Expensing
EXTENDED THROUGH 2016	Exclusion Of Discharged Mortgage Debt on Short Sale	Deductibility Of Mortgage Insurance Premiums	Above-The-Line Education Deduction For Qualified Tuition & Fees	50% Bonus Depreciation (through 2019)	
OTHER NOTABLE PROVISIONS	Expansion Of Section 529 Qualified Expenses To Include Computer & Related Expenses	Elimination Of Section 529 Plan Aggregation Rule	Elimination Of 529 ABLE Account In-State Residency Requirement		

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- | TAX EXTENDERS UNDER THE PATH ACT OF 2015 | | | | | |
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PERMANENT TAX EXTENSIONS

- Qualified Charitable Distributions (QCDs) from IRAs
 - Up to \$100,000 per taxpayer
 - Must be over age 70 ½
 - Count as your RMD for the year
- Repeatedly lapsed & reinstated for years!

SERIES OF RULES IN EFFECT WITH QCDs

Timeline: 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015

Events and Legislation:

- 2006: PENSION PROTECTION ACT AUTHORIZED QCDs
- 2008: QCDs REINSTATED UNDER EESA
- 2010: QCDs ARE BACK UNDER 2010 TAX RELIEF ACT
- 2012: QCDs ARE BACK AGAIN UNDER 2012 ATRA
- 2014: QCDs REINSTATED AGAIN UNDER TIFA 2014
- 2015: QCDs LAPSED BUT REINSTATED

Legislation:

- 1 Pension Protection Act of 2006
- 2 Emergency Economic Stabilization Act of 2008
- 3 Tax Relief, Unemployment Insurance Reauthorization & Job Creation Act of 2010
- 4 American Taxpayer Relief Act of 2012
- 5 Tax Increase Prevention Act of 2014 [Tax Extenders]

Additional Notes:

- IRA DISTRIBUTION IN DEC. 2012 CAN BE RECHARACTERIZED AS R-QCD (2012)
- ATRA ALLOWED JUNE/JULY QCD TO BE COUNTED FOR 2012

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- SERIES OF RULES IN EFFECT WITH QCDs**
- 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015
- PENSION PROTECTION ACT AUTHORIZED QCD*
- QCDs REINSTITUTED UNDER ESA†
- QCDs ARE BACK UNDER 2006 TAX RELIEF ACT*
- QCDs ARE BACK AGAIN UNDER 2012 ATRA*
- QCDs ARE BACK AGAIN UNDER 2012 ATRA*
- QCDs REINSTITUTED AGAIN UNDER TEFRA†
- 1 Pension Protection Act of 2006
 2 Emergency Economic Stabilization Act of 2008
 3 Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010
 4 American Taxpayer Relief Act of 2012
 5 Tax Increase Prevention Act of 2014 (Tax Extenders)
- IRA DISTRIBUTION IN DEC. 2012 CAN BE RECHARACTERIZED AS A QCD
- ATRA ALLOWED JANUARY QCD TO BE COUNTED FOR 2012‡
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PERMANENT TAX EXTENSIONS

- PATH Act makes QCDs permanent
 - Still time to do a QCD to satisfy 2015 RMD obligations
 - But distribution *must* be made directly to a charity
 - *Cannot* undo RMDs that have already occurred ☹
 - Better than donating cash, but still inferior to donating appreciated securities (via DAF?)!
 - Unless not itemizing deductions or at maxxing contribution limits



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PERMANENT TAX EXTENSIONS

- State & Local Sales Tax Deduction
 - Available deduction equal to the *greater* of:
 - Actual sales tax paid (and validated by receipts)
 - IRS sales tax deduction calculator estimate
 - Based on income and zip code
 - Claimed as alternative to the state income tax deduction
 - Reported on Schedule A
 - Deduct whichever produces greatest tax savings
 - Permanent under the PATH Act
 - Simply claim whichever is greater when the time comes!

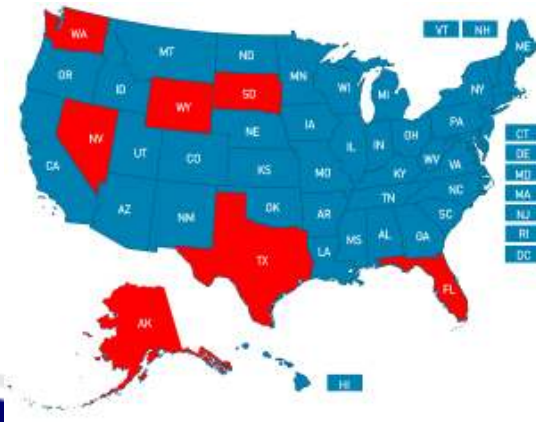
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PERMANENT TAX EXTENSIONS

- State & Local Sales Tax Deduction
 - Primarily valuable in states with no state income taxes
- Any income tax on income usually higher than sales tax only on actual spending



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PERMANENT TAX EXTENSIONS

- American Opportunity Tax Credit (AOTC)
 - Created in 2009 under President Obama's ARRA law
 - Replaced the former \$1,800/year Hope Scholarship Credit for first 2 years of college
 - Credit for up to \$2,500/year for up to 4 years of college
 - AGI phaseouts of \$160k for MFJ, \$80k for individuals
 - Cannot be claimed for expenses paid via 529 or Coverdell
- Permanent under the PATH Act

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PERMANENT TAX EXTENSIONS

- Other Notable Permanent Extensions
 - Enhanced Child Tax Credit
 - \$1,000 child tax credit is limited for lower income individuals
 - Refundable for up to 15% of earned income over threshold
 - PATH maintains threshold at \$3,000 (not reverting to \$10,000)
 - \$250 Schoolteacher Expense Deduction for Supplies
 - Now inflation-indexed, includes professional development
 - Section 179 expenses
 - Made permanent at \$500k deduction & \$2M phaseout
 - Inflation-indexed starting in 2016!

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TEMPORARY TAX EXTENSIONS

- Some provisions of PATH Act were *not* permanent
 - Many of these provisions were “truly” only ever intended to be temporary
 - Unclear whether these really will be extended again
 - Limited-time extension sets the stage for them to *really* lapse?
 - At best, likely not revisited until 2017 (retroactively)
 - And we may see the beginnings of tax reform by then?

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TEMPORARY TAX EXTENSIONS

- Exclusion Of Discharged Mortgage Debt On Short Sale
 - Cancellation Of Indebtedness is normally treated as “income” for tax purposes
 - Short sale of a \$250,000 primary residence to satisfy a \$300,000 mortgage is a \$50,000 “gain” upon disposition
 - Does *not* apply in insolvent bankruptcy
 - But mortgages are non-recourse!
 - Special rule provides relief for primary residence, up to \$2M of Cancellation-Of-Debt-Income (CODI)
 - Set to expire again if no agreement to sell by end of 2016!
 - Fortunately retroactive relief for 2015 though!

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TEMPORARY TAX EXTENSIONS

- Deductibility of Mortgage Insurance Premiums
 - Allows for mortgage insurance premiums to be deducted as though it is mortgage interest
 - Primarily relevant for low-downpayment purchases that carry Private Mortgage Insurance (PMI)
 - Could also apply to Mortgage Insurance Premium on reverse mortgage (if actually paid!?)
 - Only applied to acquisition debt taken out after 2006
 - Phases out for AGI over \$100,000
 - Retroactively reinstated and extended... through 2016

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TEMPORARY TAX EXTENSIONS

- Above-The-Line Education Deduction For Tuition/Fees
 - Up to \$4,000 deduction for tuition & related fees
 - Applies for taxpayer, spouse, or dependents
 - *Cannot* be claimed if AOTC or Lifetime Learning are also claimed
 - Partially phased out at \$130k AGI for MFJ (\$65k for individuals)
 - Fully phased out at \$160k/\$80k respectively
 - Rarely used in practice
 - Deduction generally less valuable than AOTC credit at same income levels
 - Reinstated for 2015 and extended through 2016...

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OTHER NOTABLE PROVISIONS

- Improvements To Section 529 Accounts
 - Qualified higher education expenses now include computer equipment & related expenses
 - Computer hardware, software, and even internet access!
 - No more aggregation rule for multiple 529 plans
 - Gain vs return-of-principal now on an account-by-account basis
 - Not relevant if plans are only liquidated as qualified withdrawals
 - Helpful to target high-gain plans if expecting excess funds?
 - College tuition that is refunded may be rolled over/back into a 529 plan within 60 days

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OTHER NOTABLE PROVISIONS

- In-State Requirement For 529 ABLE Plans Eliminated
 - Created (but not yet deployed) under 2014 Tax Extenders
 - Tax-free 529 plan specifically for special needs beneficiaries
 - Accumulated assets and distributions don't disqualify most Federal/state aid
 - Requires Medicaid payback with unused funds
 - 529 ABLE accounts to be created as state-based
 - *Required* to use in-state plan (to facilitate Medicaid payback)
 - New rules eliminate requirement to use in-state plan
 - Will help to facilitate competition as 529 ABLE plans next year?

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PLANNING IMPLICATIONS

- Tax Extenders permanence takes the pressure off for tax legislation in 2016
 - Generally unpopular in an election year
 - No pressure to do something during lame duck
 - 2016 extenders likely to lapse into 2017
 - Sets the stage for tax reform in 2017?
 - Growing consensus on need and key provisions, just not what it should add up to (revenue increase or revenue neutral?)

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PLANNING IMPLICATIONS

- Key crackdowns saved from the chopping block
 - Prior legislation and White House has proposed numerous “loophole closers”
 - 10-year minimum term on GRATs?
 - Inclusion of assets sold to an IDGT?
 - Limit on dynasty trusts?
 - Elimination of after-tax Roth conversions?
 - Limits on stretch IRAs?
 - “Could” still appear as a revenue offset in other legislation but unlikely?

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PLANNING IMPLICATIONS

- End-Of-Year Planning Issues/Opportunities
 - End-of-year QCD (by 12/31!) to satisfy RMD?
 - Still not better than donating appreciated securities!
 - Gather receipts for 2015 sales tax deduction?
 - Pay winter tuition this year to maximize AOTC?
 - Buy a computer for college kids from your 529 plan!?
 - End-of-year business spending under Section 179
 - Also with 50% bonus depreciation reinstated?

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QUESTIONS?

Handouts & additional materials:
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