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AMERICAN TAXPAYER RELIEF ACT OF 2012

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EXPAND YOUR EXPECTATIONS℠

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SUMMARY OF THE AMERICAN TAXPAYER RELIEF ACT OF 2012

- Largest Tax Increase in 20 yrs.
- Bush Era Tax Rates Made Permanent Except for "Wealthy" Taxpayers
- Phaseouts of (i) Itemized Deductions and (ii) Personal Exemptions
- Alternative Minimum Tax Patch
- Extensions of Benefits for Individuals
- Extensions of Tax Credits and Deductions for Businesses
- Estate Planning Certainty

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Comparison of Highest Tax Bracket Elements

Tax	2012	2013
Individual Income Tax Rate	35%	39.6% *
Social Security Portion of FICA Tax	10.4%	12.4%
.9% Medicare Surcharge	0%	.9%
Capital Gains Tax	15%	23.8% (20% + 3.8%)
Qualified Dividends	15%	23.8% (20% + 3.8%)
Estate Tax Over $5M	35%	40%

* If the phaseouts for the personal exemption and itemized deductions are included, this rate is approximately 41%

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Income Tax Rates for 2013

Bush Era Rates	Reversion If No Action	2013 Rates
10%	15%	10%
25%	28%	25%
28%	31%	28%
33%	36%	33%
35%	39.6%	35%
		39.6%*

* $450,000 for married filing jointly and $400,000 for single taxpayers

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Phaseouts of Personal Exemptions and Itemized Deductions

- Threshold: Taxpayers with AGI in excess of $300,000 (married) and $250,000 (single).
- Phaseout of Personal Exemption: Personal exemptions will be reduced by 2% for each $2,500 (or portion thereof) by which the taxpayer's AGI exceeds the applicable amount.
- Phaseout of Itemized Deductions ("Pease Limitation"): Pease limitation applies to reduce itemized deductions by the lesser of (i) 3% of the excess of AGI above the threshold amount, or (ii) 80% of the amount of itemized deductions otherwise allowable.

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AMT Patch

- Permanent AMT exemption increased to $78,750 (married) and $50,600 (single) to prevent approximately 60 million taxpayers from being subject to AMT.

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.9% Medicare Surcharge

- Patient Protection and Affordable Care Act
- Threshold: $250,000 (married) and $200,000(single)
- In addition to the 1.45% Medicare tax paid, in 2013 taxpayers that make in excess of the threshold amount will pay an additional .9% Medicare tax on wages earned.

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Long Term Capital Gain and Qualified Dividends

- Threshold: $450,000 (married) and $400,000 (single) applicable to 39.6% rate.
- 0% - Taxpayers below the 25% income tax rate
- 15% - Taxpayers between the 25% and 39.6% income tax rate
- 20% - Taxpayers at the 39.6% income tax rate

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3.8 % Medicare Tax on Net Investment Income

- Patient Protection and Affordable Care Act
- The tax applies to the lesser of (i) net investment income or (ii) the excess of AGI over the threshold amount.
- Threshold: AGI of $250,000 (married) and $200,000 (single)
- Net Investment Income: Income must be is "passive" pursuant to the Section 469 passive activity rules.
- Notable Exemptions: Tax exempt bonds, tax deferred plans and accounts and gains on the sale of a principal residence.
- Example: Married taxpayers have combined salaries of $300,000 and $25,000 in capital gains from the sale of equities and $25,000 in interest and dividends. Because the taxpayers' income exceeds the $250,000 AGI threshold, these taxpayers will be subject to the additional 3.8 percent Medicare tax on their net investment income. The additional Medicare tax portion will be $1,900 ($50,000 * 3.8%).

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Business Tax

- Work Opportunity Tax Credit (WOTC): The WOTC is extended through January 1, 2014.
- 15-Yr. Straight Line: The 15 year straight line cost recovery for certain leasehold improvements, restaurant buildings and improvements placed in service prior to January 1, 2014 is extended.
- Bonus Depreciation: Extension of 50% bonus depreciation for qualified property placed in service prior to January 1, 2014.
- Section 179: Extends the ability for "qualified real property" to qualify for up to $500,000 as Section 179 expense.
- 100% Exclusion on Small Business Stock: C-corp stock held at least 5 years where corporation's aggregate gross receipts are not in excess of $50 million. Limited to the greater of 10 times the taxpayer's basis or $10 million of gain.

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Business Tax

- 5-yr S-corp BIG: The built-in gain look back period for S-corps that converted from C-corp status remains 5 years.
- New Markets Tax Credit: The New Markets Tax Credit is extended providing the 2010 and 2011 new markets tax credits of $3.5 billion in qualified equity investments to be carried forward and used in 2012 and 2013. Unused new market tax credits may be carried forward to 2018.
- R&D Credit: The research and development tax credit which expired on December 31, 2011 is retroactively reactivated for qualifying expenses incurred from January 1, 2012 through December 31, 2013.

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Estate and Gift

- $5 Million Exemption (Indexed): The exemption for gift, estate and GST purposes will be $5 million, indexed annually for inflation.
- Portability: The ability to take the unused exemption from a deceased spouse has been made permanent.
- Estate Planning Techniques Intact: Grantor retained annuity trusts (GRATs), entity discounts and other estate planning techniques remain effective estate planning strategies.

HORNE
CPAs & Business Advisors

Fiscal Cliff Impact to Businesses

SuzAnne Eubanks, CPA
January 8, 2013

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Affordable Care Act Overview

- Companies under the mandate
  - 50 or more Full-Time Employees (FTE's) automatically included
  - 30 or less FTE's are excluded
  - Between 30 – 50 FTEs then Full-Time Equivalents (FTEEs) must be considered
- Affordability
  - W-2 Income or Household Income
- Look Back Period
  - 3 – 12 months
- Reverse discrimination of benefits is acceptable
- Attribution rules are much different

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Fiscal Cliff Deal – What it means to you?

- How we approach business?
  - Taxes in the future (more akin to 10 years ago)
    - 2% tax increase for everyone (SS)
    - Section 179 and Bonus Depreciation – **Final Year?**
    - 5%↑ on dividend and capital gains on high income taxpayers
    - Alternative Minimum Tax
- Estate Tax Relief
- ROTH Conversion Option

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SMALL BUSINESS LENDING

The Banking Climate in 2013

The Banking Environment

- Regulatory Pressures
- Consolidation and Centralization
- Concentration Concerns
- Recent Historical Performance

- **The bottom line……while the credit box may not necessarily be smaller, it's edges are certainly more rigid.**

The Banking Environment

The good news…….banks need to lend money to make money, now more than ever!

How to be "bankable" in 2013

1. Controlled growth is healthy growth.
2. Leave the capital and liquidity parked in the company, not on your PFS.
3. Keep your personal credit "clean and lean".
4. Consider other forms of financing that offer extended terms (ex. SBA, USDA).

How to be “bankable” in 2013

5. Have an ongoing short-term and long-term strategic plan.
6. Periodically balance your debt structure—short term vs. long term.
7. Know your numbers and if they are bad, own them.

How to be “bankable” in 2013

8. Constantly reevaluate your market, your product and your company’s structure.
9. Plan for succession in key spots.

How to be "bankable" in 2013

10. Surround yourself with industry experts (CPA, attorney, banker, etc.) that you trust.

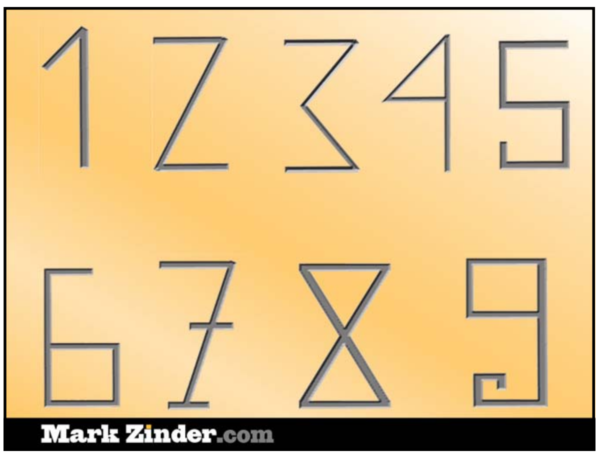
    Meet regularly with them and ***SOLICIT THEIR ADVICE*** **BEFORE** ***MAKING MAJOR DECISIONS!***

First State
SMALL BUSINESS LENDING

All we do is small business, so please call as you have financing questions:

Turner Gaw
Vice President
(615) 963-2246
(615) 342-9445 (cell)
tgaw@first-state.net


What Happens Next?
Mark Zinder.com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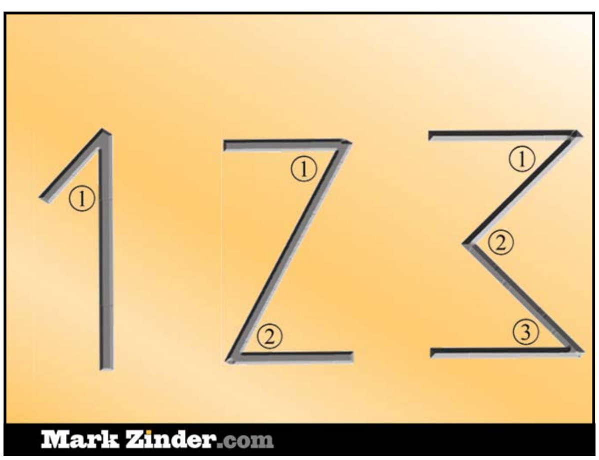
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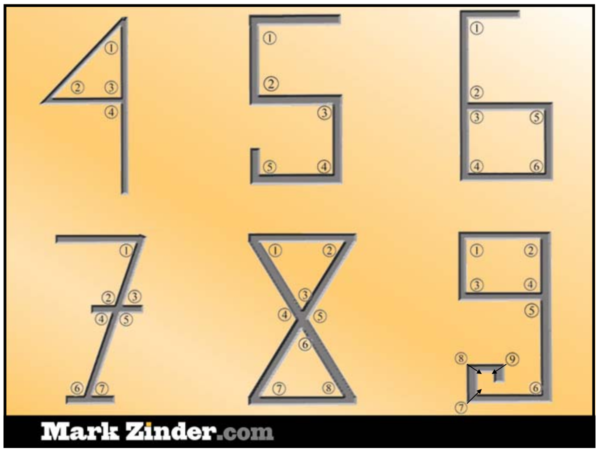
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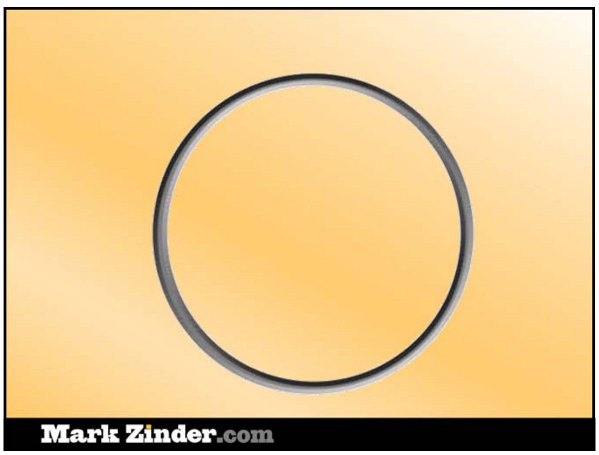
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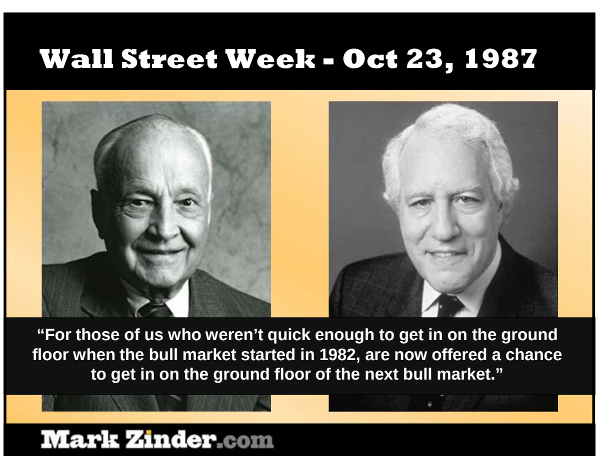
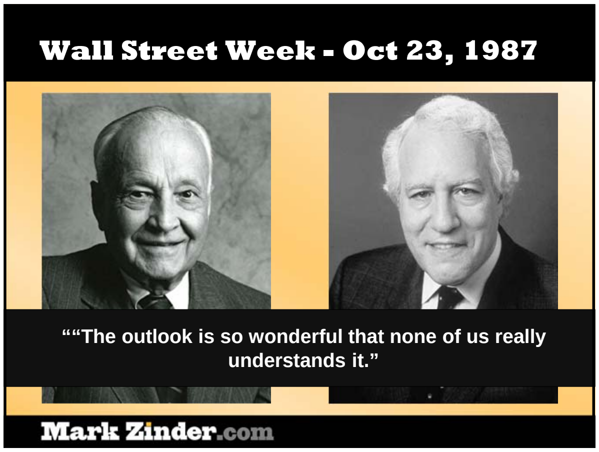
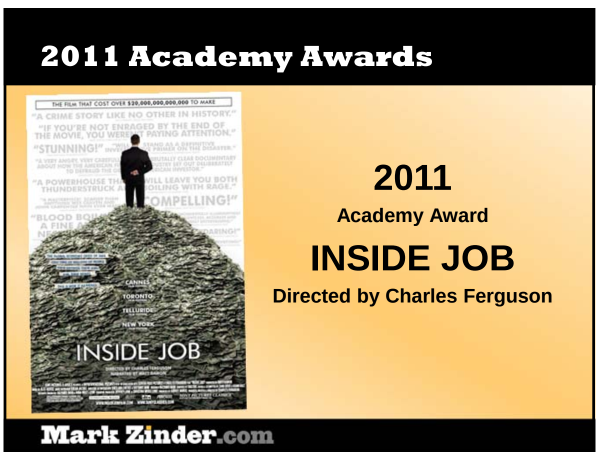

Wall Street Week - Oct 23, 1987
"For those of us who weren't quick enough to get in on the ground floor when the bull market started in 1982, are now offered a chance to get in on the ground floor of the next bull market."
Mark Zinder.com


Wall Street Week - Oct 23, 1987
““The outlook is so wonderful that none of us really understands it.”
Mark Zinder.com


2011 Academy Awards
INSIDE JOB
2011
Academy Award
INSIDE JOB
Directed by Charles Ferguson
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OAK 7 4TH
TEN 14 11:04
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Does history repeat itself?
• 1880 – New York City
• 1898 – The world's first international urban planning conference
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Creative Destruction
When you *create* something new…
you *destroy* something old!
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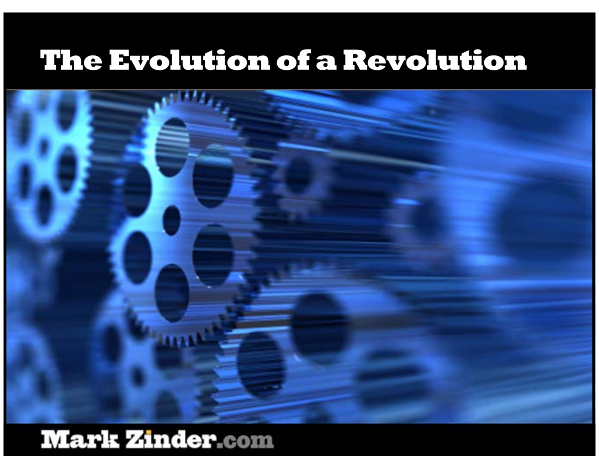
The Evolution of a Revolution
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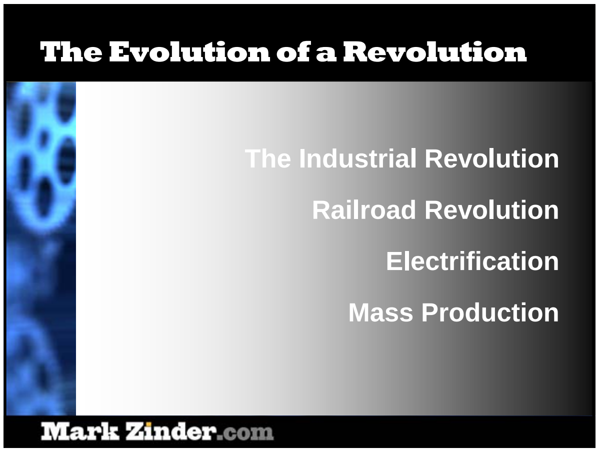
The Evolution of a Revolution
The Industrial Revolution
Railroad Revolution
Electrification
Mass Production
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The Evolution of a Revolution
• Idea
• Exotic Curiosity
• Early Adoption
• General Acceptance
• Frenzy
• Collapse
• Final Build-out
• It Becomes Invisible
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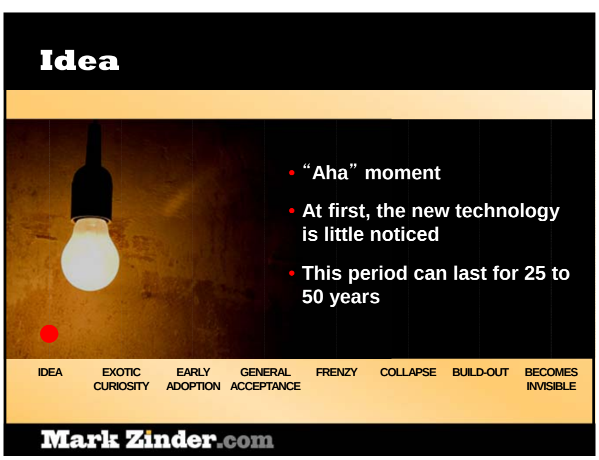
Idea
• "Aha" moment
• At first, the new technology is little noticed
• This period can last for 25 to 50 years
IDEA
EXOTIC CURIOSITY
EARLY ADOPTION
GENERAL ACCEPTANCE
FRENZY
COLLAPSE
BUILD-OUT
BECOMES INVISIBLE
Mark Zinder.com


Exotic Curiosity
The new technology achieves success in early demonstrations
People are scared of the new technology
IDEA
EXOTIC CURIOSITY
EARLY ADOPTION
GENERAL ACCEPTANCE
FRENZY
COLLAPSE
BUILD-OUT
BECOMES INVISIBLE
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Early Adoption
We go from "what *may* be possible" to "what *is* possible"
New businesses are started based on the new idea
IDEA
EXOTIC CURIOSITY
EARLY ADOPTION
GENERAL ACCEPTANCE
FRENZY
COLLAPSE
BUILD-OUT
BECOMES INVISIBLE
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General Acceptance
It's a technical free-for-all
Government regulations are largely absent
IDEA
EXOTIC CURIOSITY
EARLY ADOPTION
GENERAL ACCEPTANCE
FRENZY
COLLAPSE
BUILD-OUT
BECOMES INVISIBLE
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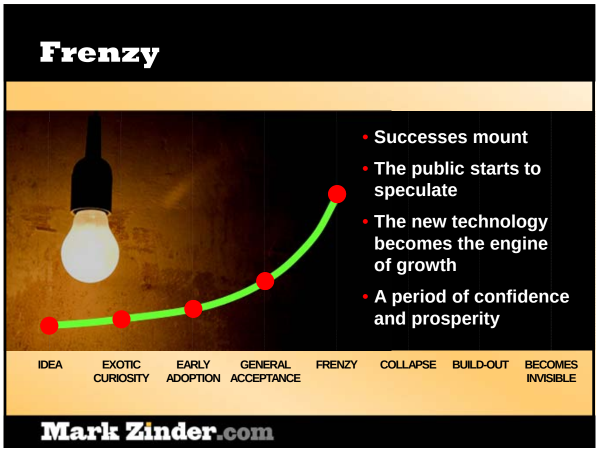
Frenzy
Successes mount
The public starts to speculate
The new technology becomes the engine of growth
A period of confidence and prosperity
IDEA
EXOTIC CURIOSITY
EARLY ADOPTION
GENERAL ACCEPTANCE
FRENZY
COLLAPSE
BUILD-OUT
BECOMES INVISIBLE
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Collapse
Bear Market
Hope is the last emotion to die
IDEA
EXOTIC CURIOSITY
EARLY ADOPTION
GENERAL ACCEPTANCE
FRENZY
COLLAPSE
BUILD-OUT
BECOMES INVISIBLE
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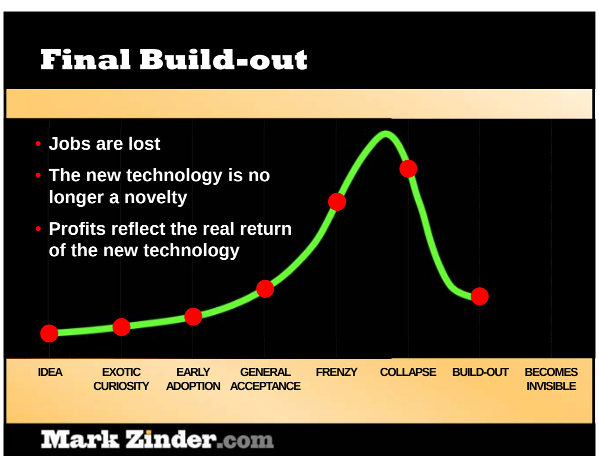
Final Build-out
Jobs are lost
The new technology is no longer a novelty
Profits reflect the real return of the new technology
IDEA
EXOTIC CURIOSITY
EARLY ADOPTION
GENERAL ACCEPTANCE
FRENZY
COLLAPSE
BUILD-OUT
BECOMES INVISIBLE
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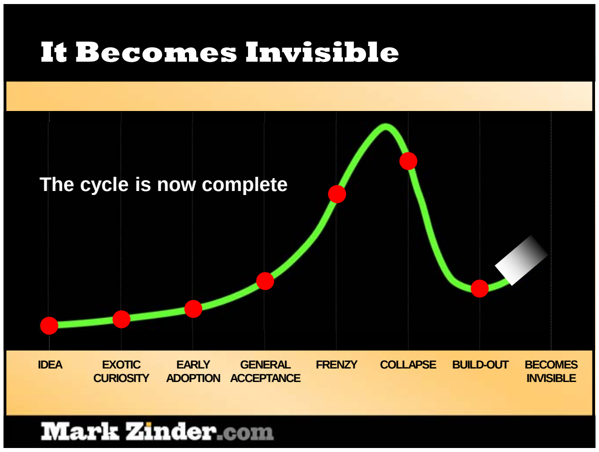
It Becomes Invisible
The cycle is now complete
IDEA
EXOTIC CURIOSITY
EARLY ADOPTION
GENERAL ACCEPTANCE
FRENZY
COLLAPSE
BUILD-OUT
BECOMES INVISIBLE
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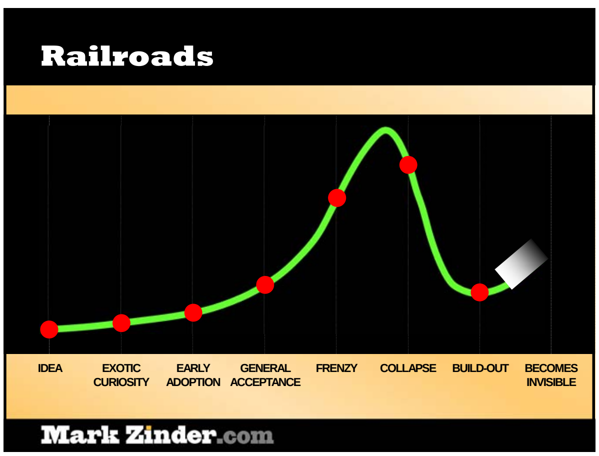
Railroads
IDEA
EXOTIC CURIOSITY
EARLY ADOPTION
GENERAL ACCEPTANCE
FRENZY
COLLAPSE
BUILD-OUT
BECOMES INVISIBLE
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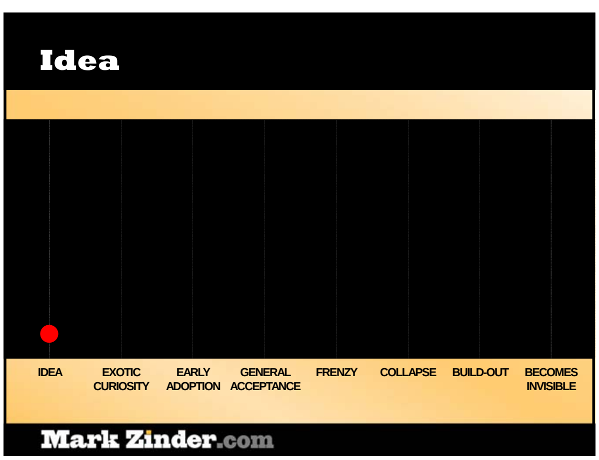
Idea
IDEA
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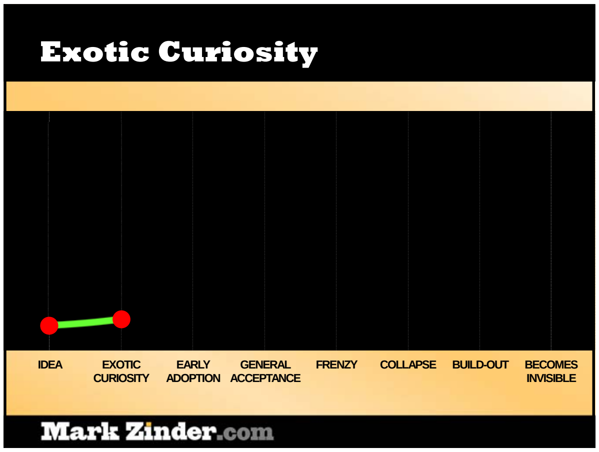
Exotic Curiosity
IDEA
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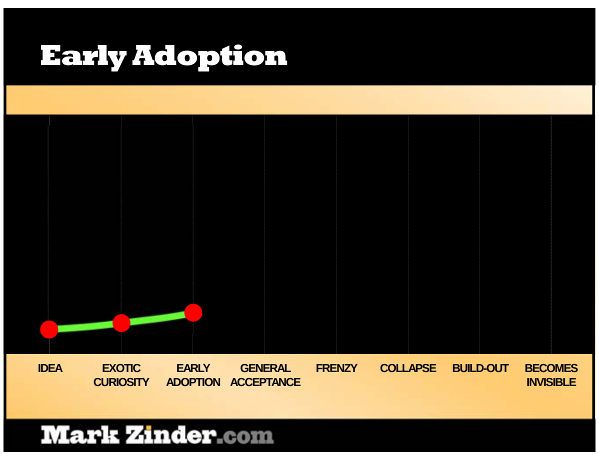
Early Adoption
IDEA
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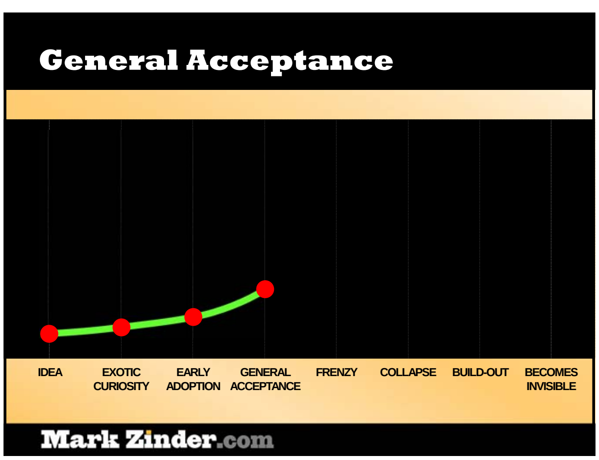
General Acceptance
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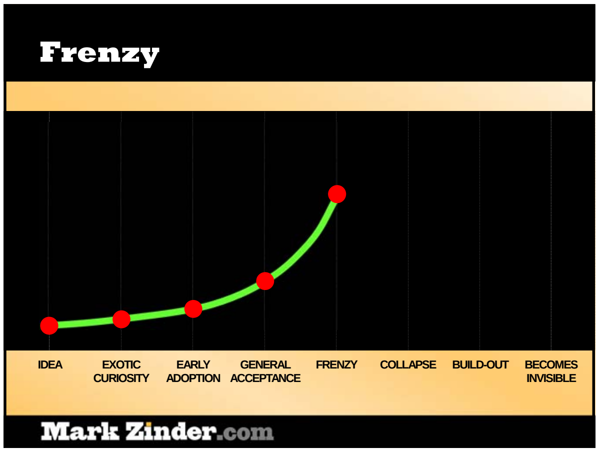
Frenzy
IDEA
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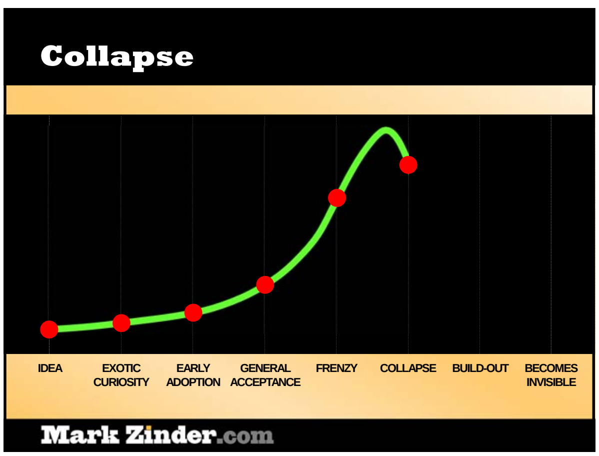
Collapse
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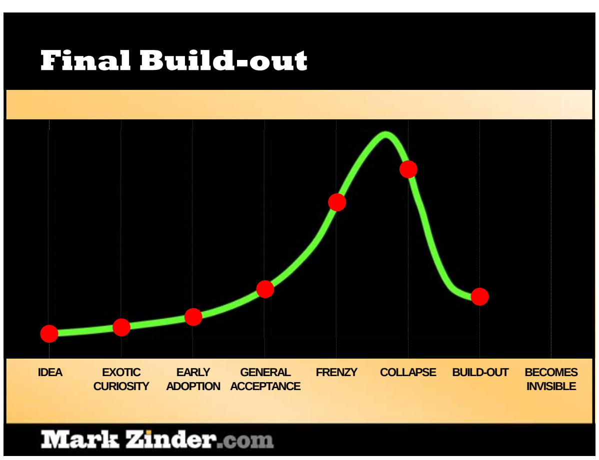
Final Build-out
IDEA
EXOTIC CURIOSITY
EARLY ADOPTION
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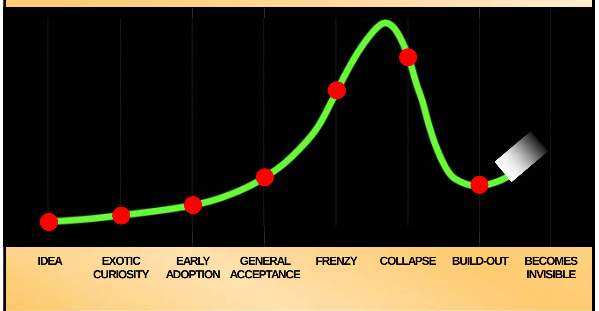
Final Build-out



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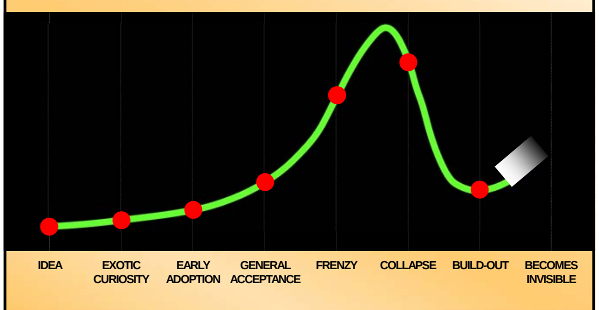
Technology



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Industrial Revolution	1760 – 1820	60 years
Railroad	1825 – 1870	45 years
Electrification	1875 – 1920	45 years
Mass Production	1910 – 1970	60 years

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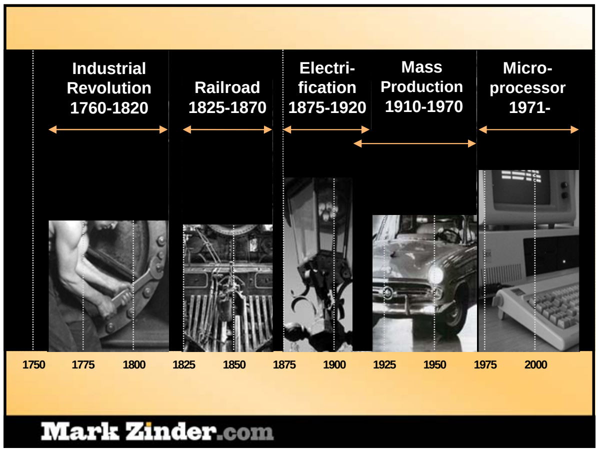
Industrial Revolution 1760-1820
Railroad 1825-1870
Electri-fication 1875-1920
Mass Production 1910-1970
Micro-processor 1971-
1750 1775 1800 1825 1850 1875 1900 1925 1950 1975 2000
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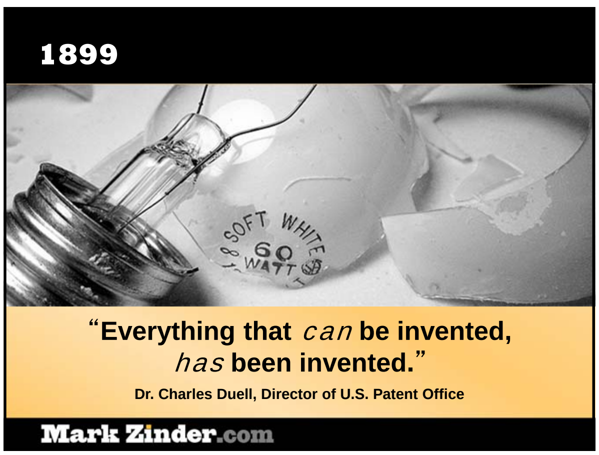
1899
SOFT WHITE
60 WATT
"Everything that *can* be invented, *has* been invented."
Dr. Charles Duell, Director of U.S. Patent Office
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What Happens Next?
Inflation
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1969

My Dad went on a business trip and
my Mom bought a house!

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The Taylor Rule

$$i = r^* + pi + 0.5\,(pi - pi^*) + 0.5\,(y - y^*)$$

i = Nominal fed funds rate

r* = Real federal funds rate

pi = Rate of inflation

p*= Target inflation rate

Y = Logarithm of real output

y* = Logarithm of potential output

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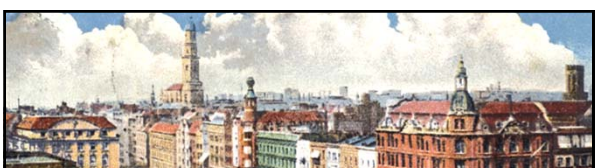

Germany, 1921

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Hundert
Mark
Mark Zinder.com


Reichsbanknote
Fünfzigtausend
Mark
50000
H·04690675
Mark Zinder.com


Reichsbanknote
Zwei Millionen Mark
Berlin, den 9. August 1923
MM
Reichsbankdirektorium
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100 000 000 000 000 RESERVE BANK OF ZIMBABWE 100 000 000 000 000
I promise to pay the bearer on demand
ONE HUNDRED TRILLION DOLLARS
for the Reserve Bank of Zimbabwe
AA0567648
100 000 000 000 000
HARARE
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TOILET PAPER ONLY
TO BE USED IN THIS TOILET
NO CARDBOARD
NO CLOTH
NO ZIM DOLLARS
NO NEWSPAPER
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TOILET PAPER ONLY
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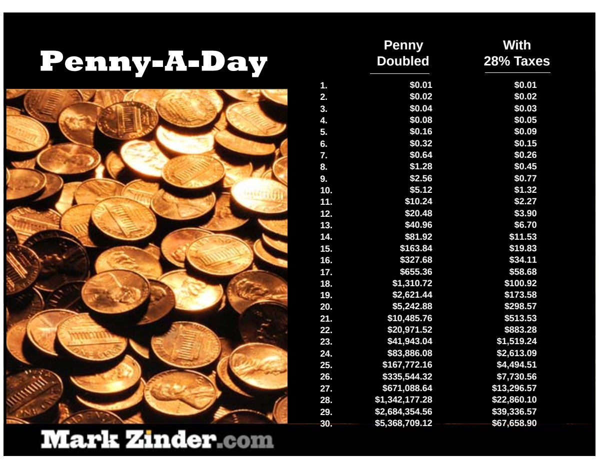

	Penny Doubled	With 28% Taxes
1.	$0.01	$0.01
2.	$0.02	$0.02
3.	$0.04	$0.03
4.	$0.08	$0.05
5.	$0.16	$0.09
6.	$0.32	$0.15
7.	$0.64	$0.26
8.	$1.28	$0.45
9.	$2.56	$0.77
10.	$5.12	$1.32
11.	$10.24	$2.27
12.	$20.48	$3.90
13.	$40.96	$6.70
14.	$81.92	$11.53
15.	$163.84	$19.83
16.	$327.68	$34.11
17.	$655.36	$58.68
18.	$1,310.72	$100.92
19.	$2,621.44	$173.58
20.	$5,242.88	$298.57
21.	$10,485.76	$513.53
22.	$20,971.52	$883.28
23.	$41,943.04	$1,519.24
24.	$83,886.08	$2,613.09
25.	$167,772.16	$4,494.51
26.	$335,544.32	$7,730.56
27.	$671,088.64	$13,296.57
28.	$1,342,177.28	$22,860.10
29.	$2,684,354.56	$39,336.57
30.	$5,368,709.12	$67,658.90


What Happens Next?
In America
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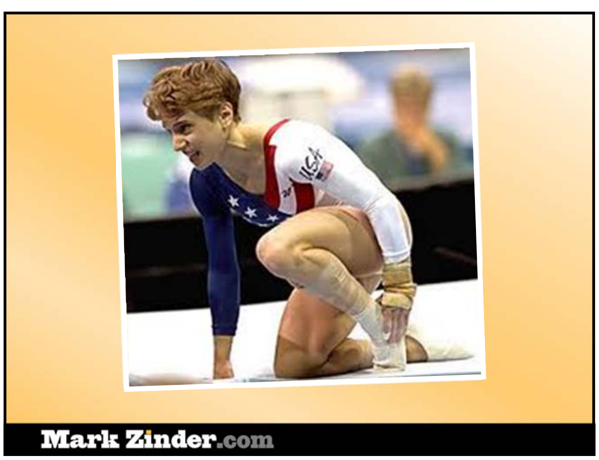
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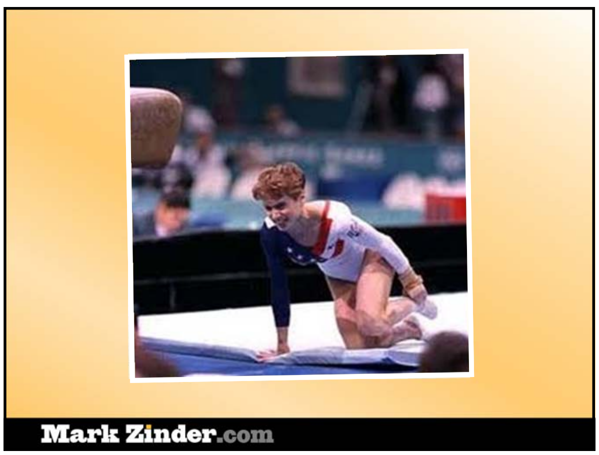
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IFA Federal Government Relations Update
January 2013

2012 Election

President Barack Obama won re-election by defeating Republican nominee Mitt Romney with 322 electoral votes to Romney's 206 and with 51% of the popular vote to Romney's 47%. The Democratic Party maintained control of the U.S. Senate by picking up two net seats. The partisan makeup of the Senate for the 113th Congress is 53 Democrats, 45 Republicans, and two independents (both of whom caucus with Democrats). Although the Democrats gained 8 net seats in the House of Representatives, the Republican Party maintained control of the chamber. The partisan makeup of the House for the 113th Congress is 234 Republicans and 201 Democrats.

Key Legislative Issues

- **Tax Reform** –Tax reform will be an issue in the 113th Congress, and IFA will continue to advocate for comprehensive reforms that address both corporate and individual rates. The Fiscal Cliff deal took a small step towards reform by making business tax extenders such as accelerated depreciation for restaurant and retail improvements, bonus depreciation, and the work opportunity tax credit permanent. However, both corporate rates and individual rates paid by small business owners need further reform to sustain and increase the growth of franchising.

- **Health Care** – The Affordable Care Act (ACA), although constitutional, is unworkable, unaffordable and wrong for our country's small business owners who continue to struggle in a sluggish economic climate. Although the repeal of ACA is unlikely following the 2012 elections, IFA will pursue changes to the law to ease the burden on franchise small business owners, and will continue to inform regulators as to the interest of franchise business owners as regulations are proposed throughout 2013. To educate members on new health care regulations and how to implement the ACA, IFA is creating a new web hub and is offering webinars on implementation, in addition to an in-depth session at the 2013 IFA Convention.

- **Labor Regulations & Workforce Policy** – The NLRB is attempting to enact portions of the failed Employee Free Choice Act through regulation, putting increased pressure on business owners. Additionally, a number of recent decisions by the NLRB risk the rights of both employers and workers, including the "ambush election" rule to shorten the timeframe for holding union elections and the *Specialty Healthcare* decision, which approved the formation of "micro-unions". IFA is challenging the legitimacy of the NLRB's actions due to the controversial recess appointments of its members, and continues to challenge NLRB decisions that threaten employer free speech.

IFA Franchising — Building local businesses, one opportunity at a time. INTERNATIONAL FRANCHISE ASSOCIATION

IFA State Government Relations Update
January 2013

2012 Elections

In 2012, Republicans picked up one net Governorship in eleven races nationwide, giving Republicans 30 Governorships and Democrats 19, with one independent. In state house races, Democrats made large gains, giving them control of 15 state legislatures. Republicans now control 23 state houses outright, with 12 states having split control.

Key Legislative Issues

State:

- **Franchise Relationship Legislation** – Across the country, misguided franchise relationship laws pose an imminent threat to franchising, and IFA is working continuously to inoculate franchising against this legislation by educating state lawmakers and officials on the basics of franchising and the economic impact of the industry. Relationship bills were defeated in California, Massachusetts and Michigan in 2012, and other legislative battles are expected in 2013.

- **Clarifying Franchisees as Independent Contractors** – Although franchisees are widely considered businesses that are independent from their franchisors, franchisees do not pass the "A-B-C" test for classifying independent contractors in many states. Following a 2012 victory in Georgia, IFA will continue to proactively pursue legislation in 2013 in Delaware, Massachusetts, Indiana and Nebraska to clarify franchisees as independent contractors. IFA has retained counsel in multiple states and engaged with coalition partners to build broad support for this legislation.

Local:

- **New York City Soda Ban** – IFA is an active member of New Yorkers for Beverage Choices, a coalition to overturn Mayor Bloomberg's soda size restrictions.
- **DC Proposed Soda Ban** – Several DC Councilmembers have discussed introducing soda restrictions similar to those in New York City. IFA is active in a formal coalition opposing such proposals.
- **Seattle Proposed Criminal Background Ordinance** – Seattle is considering an ordinance that would restrict employers from using criminal background checks when screening potential employees. IFA is active in an informal coalition opposed to the measure.
- **U.S. Conference of Mayors** – IFA continues to work with the USCM to build relationships with local leaders and promote franchising as a model for economic development. Sly James, Mayor of Kansas City, MO, is the new co-chair of the Small Business and Franchising Task Force.

HORNE
CPAs & Business Advisors

The Affordable Care Act
How will Health Care Reform Impact Your Business?

TEST ONE

Based on number of Full-Time Employees (FTE) in your business (30+ hours per week or 120 hours per month)

- If you have 30 or less FTEs you will not be subject to penalties for failure to provide health insurance coverage
- If you are not excluded on this test then continue to test two

TEST TWO

Based on combined number of FTEs and Full-Time Equivalent Employees (FTEE) (total hours worked for all employees with < 120 hours a month divided by 120) Example - 2,410 total hrs/120 hrs = 20.084 FTEEs

- Total number of FTEEs and FTEs (computed in test one)
- If the combined number is less than 50 you will not be subject to penalties for failure to provide health insurance coverage

PLEASE STOP READING if you are excluded under either test. Otherwise, continue to the next page.

For more information on how the Affordable Care Act may impact your business, please contact your franchise partner –

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Mike Roberts, mike.roberts@horne-llp.com
Michael Sassano, michael.sassano@horne-llp.com

ILLUSTRATION IF SUBJECT TO HEALTH CARE MANDATE

Typical 6 Store Restaurant Franchisee

- 53 regular FTEs
- 20 FTEEs
- (2,410 hours/120 hours = 20.084 FTEEs)
- **73 FTEs & FTEEs**

Not Offering Coverage vs Offering Coverage

Not Offering Coverage

- 73 FTEEs
- 53 FTEs
- 1 employee qualifies and seeks assistance
- Tax Calculation
  - $2,000 x (53 (FTEs) – 30 (excluded)) = $46,000 ($3,833/month)

Offering Coverage

- 73 FTEEs
- 53 FTEs
- 2 employees qualify and are enrolled in an insurance exchange and receive premium assistance tax credit or cost-sharing
- Tax Calculation
  - $3,000 x 2 (employees on assistance) = $6,000 ($500/month) OR
  - $2,000 x (53 (FTEs) – 30 (excluded)) = $46,000 ($3,833/month)

Conclusion

The tax, in the above scenario, on those who could not afford your health insurance plan would be far less ($500 vs. $3,833) than not offering coverage at all. *What's the catch?* You must determine your cost for the employer portion of the health care premium. Remember, you only have to cover FTEs and some of them will have coverage elsewhere.

Health Insurance Coverage Example

- Employer pays $125 per employee, per month toward premium
- 23 employees utilize your insurance program
- $2,875 cost before tax (23 x $125)
- $2,156 per month (cost after tax, assuming 25% tax rate)
- This is still less than the $3,833 penalty (which would not be tax deductible)

NOTE: The cost is yet to be determined but assume that insurance providers will price affordable policies slightly lower than the annual tax (penalty) to motivate employers to pay the premium vs. paying the tax..

YOU WILL NEED TO GATHER THE FOLLOWING INFORMATION PRIOR TO A CONSULTATION:

- Number of FTEs & FTEEs for most recent month (we can compute if we prepare your payroll)
- Survey your FTEs to see how many would use your health coverage if they had to have coverage under the reform
- Amount you would contribute to monthly premium
- Estimate cost of a family plan / single plan per month

HEALTH CARE REFORM

Patient Protection & Affordable Care Act - PPACA

The new reform will:

- Provide health care coverage to everyone
- Eliminate discrimination
- Provide incentives to small businesses by receiving tax breaks for providing coverage
- Mandate large employers to offer coverage or pay a tax beginning in 2014
- Exceptions for those who are retired or living within ranges of the Federal Poverty Level (FPL)
- Enforce penalties for individuals who are not covered by Medicare, Medicaid, state insurance exchanges, or employer coverage (determined on Form 1040 when filing individual income taxes)

Definition of Affordable Coverage

- Annual deductible limitations cannot exceed $2,000 for individuals and $4,000 for families
- No cost-sharing for preventive services
- No annual or lifetime caps on the dollar value of services
- Out-of-pocket cannot exceed HSA (health savings account) limits
- Limits waiting period for coverage to 90 days
- Reduces out-of-pocket limits for those up to 400% of the FPL
- Premiums are based on standard population - age, geographic area, family composition & tobacco use
    - Ratings cannot take into account gender, health status, occupation, genetic information or claims history
- "Household" income - based on income level two years before the enrollment period
- The Health & Human Services secretary is working on the following to assist consumers:
    - Provide income information to coordinate between Exchange, Employees and the IRS
    - Determine plan costs by developing an electronic calculator
    - Determine eligibility for coverage and tax credits
    - Provide a call center for customer service

NOTE: Splitting your company into two or more entities to avoid this designation will be litigated as an act of Fraud. Various state and other governmental agencies will be cross-referencing databases for fraudulent acts.

SHOP Insurance Exchanges

- By 2014, states must set up individual & small business health options programs (SHOP exchanges)
- Plans offered must be easy to compare
    - Basic coverage and differences in the % of cost and what the plan will cover

When Offering Insurance Coverage Policies

- Offer coverage to FTEs
- Standard insurance package
    - NO discrimination among employees premiums
- A basic package offering that meets the essential coverage with a set sharing of premiums

- Affordable minimum coverage is:
  - Coverage offered to all FTEEs
  - Employees are not adversely impacted by their part of the premium if:
    - Premium does not exceed 9.5% of household income

Individual Mandates

- Individuals not covered by Medicare, Medicaid, an employer plan or other plan will be subject to a tax starting 2014
  - Monitored thru Form 1040
  - Tax limit per family is capped at 3 times the adult penalty
  - Applicable per month
  - Individuals under 18 are subject to ½ the flat rate penalty
  - PPACA provides relief from penalty for:
    - Religious Conscience Objectors
    - Undocumented Individuals
    - Qualified Members of Native American Tribes
    - Certain Hardship Cases
    - Incarcerated Individuals
  - What is the Federal Poverty Level?
    - Up to 133% of base level – individuals would be covered by Medicaid
    - If your income level is between 133% and 400% of the poverty level then you may be eligible for assistance based on a sliding scale.

Individual Penalty Calculation

- The tax is greater of (per individual, by month)
  - The flat dollar amount
    - 2014 - $95
    - 2015 - $325
    - 2016 - $695 OR
  - Applicable percentage of AGI
    - 2014 – 1%
    - 2015 – 2%
    - 2016 – 2.5% AND
  - Cannot exceed 300% of the Flat Dollar Amount
    - 2014 - $285
    - 2015 - $1,185
    - 2016 - $2,085

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CCH a Wolters Kluwer business

American Taxpayer Relief Act of 2012

January 2, 2013 Special Report

HIGHLIGHTS

- 39.6% Tax Rate For Incomes Above $400,000 ($450,000 Families)
- All Other Bush-Era Tax Rates Extended
- 20% Maximum Capital Gains/ Dividend Tax Rate
- Maximum 40% Estate/Gift Tax Rate
- Permanent AMT Patch
- Five-Year Extension Of Enhanced Education Credit
- One-Year Extension Of Many Business Tax Extenders
- Over 30 Extenders Retroactive To Start Of 2012

INSIDE

Congress Approves Eleventh-Hour Agreement To Avert Fiscal Cliff

The tax side of the "Fiscal Cliff" has been averted. The U.S. Senate overwhelmingly passed legislation to avert the so-called fiscal cliff on January 1, 2013 by a vote of 89 to 8, sending the American Taxpayer Relief Act of 2012 (HR 8, as amended by the Senate) to the House, where it was similarly approved on January 1, 2013 by a vote of 257 to 167. The American Taxpayer Relief Act allows the Bush-era tax rates to sunset after 2012 for individuals with incomes over $400,000 and families with incomes over $450,000; permanently "patches" the alternative minimum tax (AMT); revives many now-expired tax extenders, including the research tax credit and the American Opportunity Tax Credit; and provides for a maximum estate tax of 40 percent with a $5 million exclusion. The bill also delays the mandatory across-the-board spending cuts known as sequestration. President Obama said that he will sign this legislation as soon as it reaches his desk.

IMPACT. *Individuals with incomes above the $450,000/$400,000 thresholds will pay more in taxes in 2013 because of a higher 39.6 percent income tax rate and a 20 percent maximum capital gains tax. Nevertheless, all taxpayers will find less in their paycheck in 2013 because of what the American Taxpayer Relief Act did not include: the new law effectively raises taxes for all wage earners (and those self-employed) by not extending the 2012 payroll tax holiday that had reduced OASDI taxes from 6.2 percent to 4.2 percent on earned income up to the Social Security wage base ($113,700 for 2013).*

IMPACT. *The American Taxpayer Relief Act avoids draconian automatic sunset provisions that were scheduled to take effect after 2012 under the Bush-era tax cuts in the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTTRA) and the Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA) (both as extended by subsequent legislation, including the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 (2010 Tax Relief Act). Without the American Taxpayer Relief Act, individual tax rates on all income groups would have increased, taxpayer-friendly treatment of capital gains and dividends would have completely disappeared, the child tax credit would have plummeted to $500, enhancements to education tax incentives would have ended, the federal estate tax would have reverted to a maximum rate of 55 percent, and many other popular but temporary incentives would no longer be available.*

INDIVIDUAL INCOME TAX RATES

The American Taxpayer Relief Act of 2012 makes permanent for 2013 and beyond the lower Bush-era income tax rates for all, except for taxpayers with taxable income above $400,000 ($450,000 for married taxpayers, $425,000 for heads of households). Income above these levels will be taxed at a 39.6 percent rate.

IMPACT. *The 10, 15, 25, 28 and 33 percent marginal rates remain the same after*

Click to continue on next page

2012, as does the 35 percent rate for income between the top of the 33 percent rate (projected to be at $398,350 for most taxpayers) and the $400,000/$450,000 threshold at which the 39.6 percent bracket now begins.

Individual marginal tax rates of 10, 15, 25, 28, 33, and 35 percent at the end of 2012, therefore, are now set going forward at the same 10, 15, 25, 28, 33, and 35 rates, but with an additional 39.6 percent rate carved out from the old 35 percent bracket range. The fiscal cliff agreement also uses the same $400,000/$450,000 taxable income threshold to apply a higher capital gains and dividend rate of 20 percent, up from 15 percent *(see discussion, at "Capital Gains and Dividends," below).*

IMPACT. *The bracket ranges for the extension of the 35 percent rate now cover only a relatively small sliver of what had constituted the upper-income range. As projected for annual inflation, the range of the 35 percent tax bracket for 2013 because of the Bush-era rate extensions begins at $398,350, for all individual brackets, except half ($199,175) for married taxpayers filing separately. The 35 percent income bracket ranges for 2013, therefore, are:*

- *$398,350 - $400,000 for single filers*
- *$398,350 - $425,000 for heads of household*
- *$398,350 - $450,000 for joint filers. surviving spouses*
- *$199,175 - $225,000 for married filing separately*

IMPACT. *Taxpayers who find themselves within the 39.6 percent marginal income tax bracket nevertheless also benefit from extension of all Bush-era rates below that level.*

As with all tax bracket ranges, the new law directs that the $450,000/$400,000 beginning of the 39.6 percent bracket be adjusted for inflation after 2013 based upon the standard formula of Code Sec. 1(f). Also relevant, however, the new law did not adopt recommendations that had been floated for several years that would lower the inflation-factor applied annually to all tax bracket ranges, thereby raising slightly more tax revenue each year.

COMMENT. *Full sunset of the Bush-era tax rates would have replaced the 10, 15, 25, 28, 33 and 35 percent rates with the Clinton-era rate schedule of 15, 28, 31, 36, and 39.6 percent.*

> "The American Taxpayer Relief Act avoids draconian automatic sunset provisions that were scheduled to take effect after 2012..."

COMMENT. *President Obama had initially proposed a $250,000/$200,000 threshold for higher rates. This proposal had been based upon a modified adjusted gross income (AGI) amount. The new law not only raises the dollar value but also simplifies that proposal by keying the $450,000/$400,000 threshold amounts to bottom-line taxable income.*

COMMENT. *Although these rates are now made "permanent," nothing would stop Congress from reconsidering the entire tax rate structure again in the future, as part of overall tax reform or even earlier as debt ceiling negotiations get under way shortly.*

IMPACT. *The majority of U.S. businesses are passthrough entities, such as partnerships and S corporations. Profits are passed through to their individual owners and therefore are taxed at individual income tax rates. A "C" corporation, with its current corporate level tax rate of 35 percent (which may drop if recent corporate tax reform proposals are adopted), may become more attractive with rates rising to 39.6 percent for some individuals.*

Marriage Penalty Relief

The American Taxpayer Relief Act extends all existing marriage penalty relief. Before EGTRRA, married couples experienced the so-called marriage penalty in several areas. EGTRRA gradually increased the basic standard deduction for a married couple filing a joint return to twice the basic standard deduction for an unmarried individual filing a single return. The 2010 Tax Relief Act extended EGTRRA's marriage penalty relief through 2012.

IMPACT. *Without marriage penalty relief, the standard deduction for married couples would be 167 percent of the deduction for single individuals rather than 200 percent. For joint filers in 2013, that would have meant a drop of $1,950, from $12,200 to $10,150.*

EGTRRA also gradually increased the size of the 15 percent income tax bracket for a married couple filing a joint return to twice the size of the corresponding rate bracket for an unmarried individual filing a single return. The 2010 Tax Relief Act extended this treatment through 2012 only. Without that relief, the top of the 15 percent rate bracket in 2013 for married taxpayers filing jointly would be set at a projected $60,550 rather than $72,500.

CAPITAL GAINS/ DIVIDENDS SUNSETS

The American Taxpayer Relief Act raises the top rate for capital gains and dividends to 20 percent, up from the Bush-era maximum 15 percent rate. That top rate will apply to the extent that a taxpayer's income exceeds the thresholds set for the 39.6 percent rate ($400,000 for single filers; $450,000 for joint filers and $425,000 for heads of households).

All other taxpayers will continue to enjoy a capital gains and dividends tax at a maximum rate of 15 percent. A zero percent rate will also continue to apply to capital gains and dividends to the extent income falls below the top of the 15 percent income tax bracket—projected for 2013 to be $72,500 for joint filers and $36,250 for singles). Qualified dividends for all taxpayers continue to be taxed at capital gains rates, rather than ordinary income tax rates as prior to 2003.

> **IMPACT.** *Absent the American Taxpayer Relief Act, the maximum tax rate on net capital gain of all noncorporate taxpayers would have reverted to 20 percent (10 percent for taxpayers in the 15 percent bracket) starting January 1, 2013.*

The 28 and 25 percent tax rates for collectibles and recaptured Code Sec. 1250 gain, respectively, continue unchanged after 2012. Also unchanged is the application of ordinary income rates to short-term capital gains; only long-term capital gains, those realized on the sale or disposition of assets held for more than one year, can benefit from the reduced net capital gain rate.

Generally, dividends received from a domestic corporation or a qualified foreign corporation, on which the underlying stock is held for at least 61 days within a specified 121-day period, are qualified dividends for purposes of the reduced tax rate. Certain dividends do not qualify for the reduced tax rates and are taxed as ordinary income. Those include (not an exhaustive list) dividends paid by credit unions, mutual insurance companies, and farmers' cooperatives.

> **CAUTION.** *Installment payments received after 2012 are subject to the tax rates for the year of the payment, not the year of the sale. Thus, the capital gains portion of payments made in 2013 and later is now taxed at the 20 percent rate for higher-income taxpayers.*

> **COMMENT.** *Starting in 2013, under the Patient Protection and Affordable Care Act (PPACA), higher income taxpayers must also start paying a 3.8 percent additional tax on Net Investment Income (NII) to the extent certain threshold amounts of income are exceeded ($200,000 for single filers, $250,000 for joint returns and surviving spouses, $125,000 for married taxpayers filing separately). Those threshold amounts stand, despite higher thresholds now set for the 20 percent capital gain rate that previously had been proposed by President Obama to start at the same levels. The NII surtax thresholds are not affected by the American Taxpayer Relief Act. Starting in 2013, therefore, taxpayers within the NII surtax range must pay the additional 3.8 percent on capital gain, whether long-term or short-term. The effective top rate for net capital gains for many "higher-income" taxpayers thus becomes 23.8 percent for long term gain and 43.4 percent for short-term capital gains starting in 2013.*

PERMANENT AMT RELIEF

The American Taxpayer Relief Act "patches" the AMT for 2012 and subsequent years by increasing the exemption amounts and allowing nonrefundable personal credits to the full amount of the individual's regular tax and AMT. Additionally, the American Taxpayer Relief Act provides for an annual inflation adjustment to the exemption amounts for years beginning after 2012

The American Taxpayer Relief Act increases the 2012 exemption amounts to $50,600 for unmarried individuals; $78,750 for married taxpayers filing jointly and surviving spouses; and $39,375 for married taxpayers filing separately. The 2013 AMT exemption amounts

CCH PROJECTED* TAX RATES FOR 2013

UNDER AMERICAN TAXPAYER RELIEF ACT OF 2012

Single Individuals

If taxable income is:	The tax will be:
Not over $8,925	10% of 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 to $398,350	$44,603.25 plus 33% of the excess over $183,250
Over $398,350 to $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

Married Couples Filing Jointly

If taxable income is:	The tax will be:
Not over $17,850	10% of 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

* The IRS is expected to release official 2013 tax rate tables shortly now that legislation has resolved the uncertainty surrounding the rates.

are projected to be $80,750 for married filing joint and qualified widow(er)s, $51,900 for single and head of household, and $40,375 for married filing separate filers.

IMPACT. *Without the AMT patch, the AMT exemption amounts for 2012 would have been $33,750 for unmarried individuals; $45,000 for married taxpayers filing jointly and surviving spouses; and $22,500 for married taxpayers filing separately, down dramatically from the $48,450/$74,450/$37,225 levels of 2011. The latest patch immediately saves over 60 million taxpayers from being subject to AMT on returns about to be filed for the 2012 tax year.*

IMPACT. *The American Taxpayer Relief Act provides that all nonrefundable personal credits are allowed to the full extent of the taxpayer's regular tax and AMT liability, effective for tax years beginning after 2011.*

COMMENT. *Acting IRS Commissioner Steven Miller estimated that 80 to 100 million taxpayers may experience a delay in filing their 2012 returns if Congress failed to enact an AMT patch before year-end 2012.*

COMMENT. *Although a "permanent" AMT patch is welcomed by many taxpayers, the future of the AMT itself could be decided later this year or next year if Congress tackles comprehensive tax reform. The AMT could, as some lawmakers have proposed, be abolished. President Obama previously proposed to replace at least part of the AMT with the so-called Buffett Rule as a part of comprehensive tax reform. The White House has explained the Buffett Rule in general terms as ensuring that taxpayers making over $1 million annually would pay an effective tax rate of at least 30 percent. In 2012, the Senate rejected the Paying a Fair Share Act, which would implement the Buffett Rule. It is unclear if Democrats will reintroduce the bill or whether it will be considered within the overall framework of possible tax reform later in 2013.*

PEASE LIMITATION

The American Taxpayer Relief Act officially revives the "Pease" limitation on itemized deductions, which was eliminated by EGTRRA as extended by the 2010 Tax Relief Act. However, higher "applicable threshold" levels apply under the new law:

- $300,000 for married couples and surviving spouses;
- $275,000 for heads of households;
- $250,000 for unmarried taxpayers; and
- $150,000 for married taxpayers filing separately.

IMPACT. *The applicable threshold for the Pease limitation for 2013, as adjusted for inflation and as computed under the sunset rules would have been $178,150 ($89,075 for individuals married filing separately). Thus, the American Taxpayer Relief Act does not call for a full revival of the Pease limitation at former levels.*

COMMENT. *The dollar amounts are adjusted for inflation for tax years after 2013.*

The Pease limitation, named after the member of Congress who sponsored the original provision, reduces the total amount of a higher-income taxpayer's otherwise allowable itemized deductions by three percent of the amount by which the taxpayer's adjusted gross income exceeds an applicable threshold. However, the amount of itemized deductions is not reduced by more than 80 percent. Certain items, such as medical expenses, investment interest, and casualty, theft or wagering losses, are excluded.

COMMENT. *President Obama has previously proposed to limit the value of all itemized deductions for "higher-income" taxpayers to 28 percent. Whether this proposal will replace or add to the Pease limitation in future tax proposals remains to be seen.*

PERSONAL EXEMPTION PHASEOUT

The American Taxpayer Relief Act also officially revives the personal exemption phaseout rules, but at applicable income threshold levels slightly higher than in the past:

- $300,000 for married couples and surviving spouses;
- $275,000 for heads of households;
- $250,000 for unmarried taxpayers; and
- $150,000 for married taxpayers filing separately.

Under the phaseout, the total amount of exemptions that may be claimed by a taxpayer is reduced by two percent for each $2,500, or portion thereof (two percent for each $1,250 for married couples filing separate returns) by which the taxpayer's adjusted gross income exceeds the applicable threshold level.

IMPACT. *The applicable thresholds for the personal exemption phaseout for 2013 if full sunset had occurred would have been $178,150 for single taxpayers and $267,200 for married couples filing a joint return.*

NO GRAND BARGAIN

The American Taxpayer Relief Act is nowhere close to the grand bargain as envisioned by the President and many lawmakers after the November elections. Effectively, it is a stop-gap measure to prevent the onus of the expiration of the Bush-era tax cuts from falling on middle income taxpayers. Congress must still address sequestration. Congress is likely to revisit tax policy and spending cuts when it tackles the expected increase on the nation's debt limit in February. Slowing the growth of entitlements, such as through a "chained-CPI" is certain to be a controversial topic in upcoming debates.

FEDERAL ESTATE, GIFT AND GST TAXES

The American Taxpayer Relief Act permanently provides for a maximum federal estate tax rate of 40 percent with an annually inflation-adjusted $5 million exclusion for estates of decedents dying after December 31, 2012.

> **IMPACT.** *The maximum estate tax rate for estates of decedents dying after December 31, 2010 and before January 1, 2013 is 35 percent with a $5 million exclusion (indexed for inflation for 2012 at $5.12 million). Effective January 1, 2013, the maximum federal estate tax rate was scheduled to revert to 55 percent with an applicable exclusion amount of $1 million (not indexed for inflation), its levels before enactment of estate tax reform in 2001 and subsequent legislation.*

> **COMMENT.** *The federal estate tax almost appeared to be a deal-breaker in the Senate. Republicans wanted complete repeal while the President insisted on a 45 percent rate with a $3.5 million exemption.*

> **COMMENT.** *The most recent estate tax legislation, the 2010 Tax Relief Act, provided for a complicated application of the tax depending on the year in which the decedent died. First, the 2010 Tax Relief Act provided for a maximum estate tax rate of 35 percent for decedents dying after December 31, 2009 and before January 1, 2013, and an applicable exclusion amount of $5 million for decedents dying after December 31, 2009 and before January 1, 2013. Second, the 2010 Tax Relief Act allowed estates of decedent's dying in 2010 to opt out of the revived estate tax. Estates of decedents dying after December 31, 2009 and before January 1, 2011 had the option to elect not to apply the estate tax regime under the 2010 Tax Relief Act. Such estates could have elected to apply either (1) the estate tax based on the 2010 Tax Relief Act's 35 percent top rate and $5 million applicable exclusion amount, with stepped-up basis or (2) no estate tax and modified carryover basis rules under EGTRRA.*

H.R. 8: SELECTED ESTIMATED REVENUE EFFECTS

*Expenditures**

Retention of 10, 25 and 28% Brackets	$654.8 billion
Child Tax Credit	$354.4 billion
Tax Dividends with 0/15/20% Rate Structure	$231 billion
American Opportunity Tax Credit	$67.2 billion
Marriage Penalty Relief	$55.6 billion
Earned Income Credit	$29 billion
Energy Tax Incentives	$18.1 billion
Research Tax Credit	$14.3 billion
Partial Repeal Of Pease Limitation/PEP	$10.5 billion

*Revenue Raisers**

Transfers Of Amounts In Applicable Retirement Plans To Roth Accounts	$12.1 billion

Other Provisions

Sunset Of Payroll Tax Holiday	$93.2 billion**

* Over 10 years (revenue scoring is mandated for 10 years. Certain provisions are permanent, others expire after 2013 or subsequent years) (JCX-13-1).
**Over 10 years as projected in 2012 by the Joint Committee on Taxation (JCX-17-12).
Note. According to the Congressional Budget Office, the overall estimate of the budgetary effects of H.R. 8 over 10 years is $-3.63 trillion in revenues.

Portability

The American Taxpayer Relief Act makes permanent "portability" between spouses. Prior to the permanent extension, portability was only available to the estates of decedents dying after December 31, 2010 and before January 1, 2013.

> *IMPACT. Portability allows the estate of a decedent who is survived by a spouse to make a portability election to permit the surviving spouse to apply the decedent's unused exclusion (the deceased spousal unused exclusion amount (DSUE)) to the surviving spouse's own transfers during life and at death.*

State Death Tax Credit/Deduction

The American Taxpayer Relief Act extends the deduction for state estate taxes.

> **IMPACT.** *Before 2005, a credit was allowed against the federal estate tax for state estate, inheritance, legacy, or succession taxes. EGTRRA repealed the state death tax credit for decedents dying after 2004 and replaced the credit with a deduction.*

More Estate Tax Provisions

The American Taxpayer Relief Act extends a number of provisions affecting qualified conservation easements, qualified family-owned business interests (QFOBIs), the installment payment of estate tax for closely-held businesses for purposes of the estate tax, and repeal of the five percent surtax on estates larger than $10 million.

Gift Tax

The American Taxpayer Relief Act provides a 40 percent tax rate and a unified estate and gift tax exemption of $5 million (inflation adjusted) for gifts made after 2012.

COMMENT. *The 2010 Tax Relief Act provided that for gifts made after December 31, 2010, the gift tax was reunified with the estate tax, with a tax rate through 2012 of 35 percent and an applicable lifetime unified exclusion amount of $5 million (adjusted annually for inflation).*

GST Tax

The American Taxpayer Relief Act extends a number of GST tax-related provisions scheduled to expire after 2012. They include the GST deemed allocation and retroactive allocation provisions; clarification of valuation rules with respect to the determination of the inclusion ratio for GST tax purposes; provisions allowing for a qualified severance of a trust for purposes of the GST tax; and relief from late GST allocations and elections.

STATE AND LOCAL SALES TAX DEDUCTION

The American Taxpayer Relief Act extends through 2013 the election to claim an itemized deduction for state and local general sales taxes in lieu of state and local income taxes.

IMPACT. *Because of the extension, taxpayers in states without income taxes continue to be able to elect to claim an itemized deduction for state (and local) general sales taxes.*

CHILD TAX CREDIT

The American Taxpayer Relief Act extends permanently the $1,000 child tax credit. Certain enhancements to the credit under Bush-era legislation and subsequent legislation are also made permanent.

IMPACT. *Absent the American Taxpayer Relief Act, the child tax credit was scheduled to revert after 2012 to $500 per qualifying child (dependents under age 17 at the close of the year). The child tax credit has been set at the $1,000 level since 2003 and is not adjusted each year for inflation. The American Taxpayer Relief Act keeps the child tax credit at the $1,000 level, still without inflation adjustments, for future years.*

IMPACT. *Bush-era and subsequent legislation modified the refundable component of the child tax credit, provided that the refundable portion of the credit does not constitute income, provided that the credit is allowable against regular income tax and AMT, repealed the AMT offset against the additional child tax credit for families with three or more children; and eliminated the supplemental child tax credit. The American Taxpayer Relief Act extends all these modifications as well.*

COMMENT. *The current provision that reduces the earnings threshold for the refundable portion of the child tax credit to $3,000 is extended through 2017.*

EARNED INCOME CREDIT

The American Taxpayer Relief Act makes permanent or extends through 2017 enhancements to the earned income credit (EIC) in Bush-era and subsequent legislation. The enhancements to the EIC made by Bush-era and subsequent legislation include (not an exhaustive list) a simplified definition of earned income, reform of the relationship test and modification of the tie-breaking rule. The IRS also has additional authority with respect to mathematical errors.

IMPACT. *Expiration of the EIC enhancements would result in the credit phaseout being determined by reference to modified adjusted gross income rather than adjusted gross income. The Bush-era legislation substituted adjusted gross income to reduce the number of calculations necessary to compute AMT.*

OTHER CHILD-RELATED TAX RELIEF

Adoption Credit/Assistance

The American Taxpayer Relief Act extends permanently Bush-era enhancements to the adoption credit and the income exclusion for employer-paid or reimbursed adoption expenses up to $10,000 (indexed for inflation) both for non-special needs adoptions and special needs adoptions.

COMMENT. *The adoption credit phases out for taxpayers above specified inflation-adjusted levels of modified adjusted gross income. The phase-out level for 2012 started at $189,710. For 2013, the beginning point for phasing out the adoption credit is projected to be $191,530. The limit on the adoption credit is projected to be $12,770 for 2013.*

Child And Dependent Care Credit

The American Taxpayer Relief Act extends permanently Bush-era enhancements to the child and dependent care credit. The current 35 percent credit rate is made permanent along with the $3,000 cap on expenses for one qualifying individual and the $6,000 cap on expenses for two or more qualifying individuals.

TAX REFORM SOLUTION?

Since passage of the 2010 Tax Relief Act, several proposals for comprehensive tax reform have been unveiled in Washington that may hold promise for a more permanent solution. A presidential panel developed the so-called Simpson-Bowles plan. The GOP has put forward several proposals for comprehensive tax reform, also calling for reduced individual income tax rates, while both parties have struggled to strike a "grand bargain." Later in 2013, a broader, more permanent solution may be found.

COMMENT. *Expenses qualifying for the child and dependent care credit must be reduced by the amount of any dependent care benefits provided by the taxpayer's employer that are excluded from the taxpayer's gross income. For 2012, total expenses qualifying for the dependent credit are capped at $3,000 in cases of one qualifying individual or at $6,000 in cases of two or more qualifying individuals subject to income thresholds. For 2013, absent extension, these monetary amounts would have decreased to $2,400 in cases of one qualifying individual or $4,800 in cases of two or more qualifying individuals, subject to income thresholds.*

COMMENT. *The amount of the credit under the American Taxpayer Relief Act continues to be adjusted gross income (AGI) sensitive. The credit is reduced by one percentage point for each $2,000 of AGI, or fraction thereof, above $15,000 through $43,000. Taxpayers with AGI over $43,000 are allowed a credit equal to 20 percent of employment-related expenses. Absent the American Taxpayer Relief Act, the AGI range would have been reduced to $10,000 through $28,000.*

COMMENT. *The child and dependent care credit is intended to help individuals pay child and dependent care expenses so the taxpayer (if married, a joint return must be filed) can work or look for work. A child, for purposes of this tax benefit, must be under 13 years of age at the close of the tax year. A qualifying dependent who is disabled, however, may be of any age if he or she is a dependent, or spouse, who lives with the taxpayer for more than half the year. EGTRRA and subsequent legislation increased the maximum amount of eligible employment-related expenses for purposes of the dependent care credit and made other enhancements. The 2010 Tax Relief Act had extended these enhancements through 2012.*

Employer-Provided Child Care Credit

The American Taxpayer Relief Act extends permanently the Bush-era credit for employer-provided child care facilities and services.

American Opportunity Tax Credit

The American Taxpayer Relief Act extends through 2017 the American Opportunity Tax Credit (AOTC). The AOTC is an enhanced, but temporary, version of the permanent HOPE education tax credit.

IMPACT. *The AOTC rewards qualified taxpayers with a tax credit of 100 percent of the first $2,000 of qualified tuition and related expenses and 25 percent of the next $2,000, for a total maximum credit of $2,500 per eligible student. Additionally, the AOTC applies to the first four years of a student's post-secondary education. The HOPE credit, in contrast, is less generous and applies to the first two years of a student's post-secondary education.*

COMMENT. *The AOTC was one of the signature pieces in President Obama's American Recovery and Reinvestment Act of 2009 and the President has often urged Congress to make the AOTC permanent.*

OTHER EDUCATION INCENTIVES

The American Taxpayer Relief Act makes permanent or extends a number of enhancements to tax incentives designed to promote education. Many of these enhancements were made in Bush-era legislation, extended by subsequent legislation and are scheduled to expire after 2012. Some enhancements, notably the American Opportunity Tax Credit, had been made in President Obama's first term.

Deduction For Qualified Tuition And Related Expenses

The American Taxpayer Relief Act extends until December 31, 2013 the above-the-line deduction for qualified tuition and related expenses. The bill also extends the deduction retroactively for the 2012 tax year.

COMMENT. *The above-the-line deduction for higher education tuition and related expenses expired after 2011. The higher education tuition deduction was created by EGTRRA and extended by subsequent laws, most recently by the 2010 Tax Relief Act, but only through the end of 2011.*

IMPACT. *In 2011, the last year in which the deduction was available under current law, the deduction reached a maximum of $4,000 for taxpayers whose modified AGI did not exceed $65,000 ($130,000 for joint filers), and $2,000 for taxpayers whose modified AGI exceeded $65,000 but did not exceed $80,000 ($160,000 for joint filers)*

COMMENT. *Taxpayers cannot claim the higher education tuition deduction in the same tax year that they claim the AOTC or the Lifetime Learning credit. A taxpayer also cannot claim the higher education tuition deduction if anyone else claims the AOTC or the Lifetime Learning credit for the student in the same tax year.*

Student Loan Interest Deduction

The American Taxpayer Relief Act extends permanently suspension of the 60-month rule for the $2,500 above-the-line student loan interest deduction. The American Taxpayer Relief Act also expands the modified adjusted gross income range for phaseout of the deduction permanently and repeals the restriction that makes voluntary payments of interest nondeductible permanently.

IMPACT. *Absent the American Taxpayer Relief Act, the 60-month limitation on the number of months during which interest paid on the student loan is deductible was scheduled to be revived after 2012.*

Coverdell Education Savings Accounts

The American Taxpayer Relief Act extends permanently Bush-era enhancements to Coverdell education savings accounts (Coverdell ESAs). These enhancements include a $2,000 maximum contribution amount and treatment of elementary and secondary school expenses as well as post-secondary expenses as qualified expenditures.

IMPACT. *Absent the American Taxpayer Relief Act, the maximum contribution amount to a Coverdell ESA was scheduled to decrease from $2,000 to $500 after 2012.*

COMMENT. *Under the American Taxpayer Relief Act, qualified educational expenses continue to include expenses incurred while attending an elementary, secondary school or post-secondary school.*

Employer-Provided Education Assistance

The American Taxpayer Relief Act extends permanently the exclusion from income and employment taxes of employer-provided education assistance up to $5,250.

COMMENT. *The employer may also deduct up to $5,250 annually for qualified education expenses paid on behalf of an employee.*

Federal Scholarships

The American Taxpayer Relief Act makes permanent the exclusion from income for the National Health Service Corps Scholarship Program and the Armed Forces Scholarship Program.

MORE INDIVIDUAL TAX EXTENDERS

Teachers' Classroom Expense Deduction

The American Taxpayer Relief Act extends through 2013 the teacher's classroom expense deduction. The deduction, which expired after 2011, allows primary and secondary education professionals to deduct (above-the-line) qualified expenses up to $250 paid out-of-pocket during the year.

COMMENT. *Qualified expenses must be reduced by any reimbursements.*

Exclusion Of Cancellation Of Indebtedness On Principal Residence

Cancellation of indebtedness income is includible in income, unless a particular exclusion applies. This provision excludes from income cancellation of mortgage debt on a principal residence of up $2 million. The American Taxpayer Relief Act extends the provision for one year, through 2013.

> "Congress is likely to revisit tax policy and spending cuts when it tackles the expected increase on the nation's debt limit in February."

IMPACT. *Homeowners have struggled to keep up with their mortgage payments and have also faced declines in the value of their principal residence. This provision avoids further financial penalties.*

Transit Benefits

The American Taxpayer Relief Act extends parity in transit benefits through December 31, 2013. These benefits are a tax-free fringe benefit to employees. Parity in the exclusion limit expired after 2011.

Mortgage Insurance Premiums

This provision treats mortgage insurance premiums as deductible interest that is qualified residence interest. The American Taxpayer Relief Act extends this provision through December 31, 2013. The provision originally expired after 2011.

IMPACT. *This provision provides an additional itemized deduction by treating mortgage insurance premiums as deductible qualified residence interest.*

Contribution of Capital Gains Real Property for Conservation

The Act extends for two years, through December 31, 2013, the special rule for contributions of capital gain real property for conservation purposes. The special rule allows the contribution to be taken against 50 percent of the contribution base. The Act also extends for two years the special rules for contributions by certain corporate farmers and ranchers.

IMPACT. *The special rule thus allows a larger charitable contribution.*

IRA Distributions to Charity

The American Tax Relief Act extends for two years, through December 31, 2013, the provision allowing tax-free distributions from individual retirement accounts to public charities, by individuals age 70½ or older, up to a maximum of $100,000 per taxpayer per year.

IMPACT. *The Act provides special transition rules. One rule allows taxpayers to recharacterize distributions made in January 2013 as made on December 31, 2012. The other rule permits taxpayers to treat a distribution from the IRA to the taxpayer made in December 2012 as a charitable distribution, if transferred to charity before February 1, 2013.*

BUSINESS TAX PROVISIONS

Many popular but temporary tax extenders relating to businesses are included in the American Taxpayer Relief Act. Among them is Code Sec. 179 small business expensing, bonus depreciation, the research tax credit, and the Work Opportunity Tax Credit.

IMPACT. *Despite predictions by some lawmakers that Congress would allow some of the* *tax extenders to permanently expire after 2012 (or, for some provisions, like the research credit, to expire after 2011), the American Taxpayer Relief Act extends many extenders, albeit through 2013. Ultimately, the fate of many of the extenders thereafter may be decided if Congress takes up comprehensive tax reform.*

Code Sec. 179 Small Business Expensing

The American Taxpayer Relief Act extends through 2013 enhanced Code Sec. 179 small business expensing. The Code Sec. 179 dollar limit for tax years 2012 and 2013 is $500,000 with a $2 million investment limit. The rule allowing off-the-shelf computer software is also extended.

IMPACT. *Without the American Taxpayer Relief Act, the Code Sec. 179 dollar limit for tax years beginning in 2012 would have been $125,000 (subject to inflation adjustment) with a $500,000 investment limit (again, subject to inflation adjustment). In tax years after 2012, the dollar limit would have reverted to $25,000 with a $200,000 investment limit. This significant decrease in the value of the incentive has now been postponed to tax years after 2013.*

Bonus Depreciation

The American Taxpayer Relief Act extends 50 percent bonus depreciation through 2013. Some transportation and longer period production property is eligible for 50 percent bonus depreciation through 2014.

IMPACT. *Bonus depreciation has been used as an economic stimulus in many tax bills in recent years. One hundred percent bonus depreciation generally expired at the end of 2011 (with certain transportation and longer period production property eligible for 100 percent bonus depreciation through 2012).*

IMPACT. *Bonus depreciation also relates to the vehicle depreciation dollar limits under Code Sec. 280F, which imposes dollar limitations on the depreciation deduction for the year in which a taxpayer places a passenger automobile in service within a business, and for each succeeding year. If bonus depreciation had not been extended, 2012 would have been the final year in which substantial first-year writeoffs for the purchase of a business automobile may be available.*

COMMENT. *To be eligible for bonus depreciation, qualified property must be depreciable under the Modified Accelerated Cost Recovery System (MACRS) and have a recovery period of 20 years or less. These requirements encompass a wide-variety of assets. The property must be new and placed in service before January 1, 2014 (January 1, 2015 for certain longer production period property and certain transportation property). Subject to the investment limitations, Code Sec. 179 expensing remains a viable alternative, especially for small businesses. Property qualifying under Code Sec. 179 expensing may be used or new, in contrast to bonus depreciation's "first-use" requirement.*

Research Tax Credit

The American Taxpayer Relief Act extends through 2013 the Code Sec. 41 research tax credit, which expired after 2011. The incentive rewards taxpayers that engage in qualified research activities with a tax credit.

IMPACT. *The research tax credit, which had expired at the end of 2011, enjoys significant bipartisan support in Congress and President Obama has called for making permanent the credit. One obstacle to its extension is its cost, which the Joint Committee on Taxation has estimated to be $14.3 billion over 10 years.*

COMMENT. *Commonly called the research or research and development credit, the incremental research credit may be claimed for increases in business-related qualified research expenditures and for increases in payments to universities and other qualified organizations for basic research. The credit applies to excess of qualified research expenditures for the tax year over the average annual qualified research expenditures measured over the four preceding years.*

Work Opportunity Tax Credit

The American Taxpayer Relief Act extends through 2013 the Work Opportunity Tax Credit (WOTC), which rewards employers that hire individuals from targeted groups with a tax credit.

IMPACT. *Under the revived WOTC, employers hiring an individual within a targeted group (generally, otherwise hard-to-employ workers) are eligible for a credit generally equal to 40 percent of first-year wages up to $6,000. The WOTC is part of the general business credit.*

COMMENT. *The Vow to Hire Heroes Act of 2011 (Heroes Act) extended the WOTC for unemployed veterans and unemployed veterans with service connected disabilities through 2012. The WOTC for qualified veterans can be as high as $9,600. The Heroes Act did not extend the non-veteran WOTC provisions. The American Taxpayer Relief Act extends the WOTC for qualified veterans as well as for those within prior targeted groups.*

SEQUESTRATION DELAYED TWO MONTHS

The Budget Control Act of 2011 imposed sequestration (across-the-board spending cuts), effective after 2012. The American Taxpayer Relief Act temporarily postpones sequestration for two months. Approximately one-half of the delay would be paid for by allowing and taxing rollovers of funds from applicable retirement accounts (such as 401(k)s) to Roth IRAs. This treatment is estimated to raise $12.1 billion over 10 years.

Qualified Leasehold/Retail Improvements, Restaurant Property

The American Taxpayer Relief Act extends through 2013 the 15-year recovery period for qualified leasehold improvements, qualified retail improvements and qualified restaurant property.

MORE BUSINESS TAX EXTENDERS

A number of other business tax extenders expired after 2011 and they are extended through 2013 under the American Taxpayer Relief Act. They include, among others:

- New Markets Tax Credit
- Employer wage credit for activated military reservists
- Subpart F exceptions for active financing income
- Look through rule for related controlled foreign corporation payments
- Railroad track maintenance credit
- Seven-year recovery period for motorsports entertainment complexes
- 100 percent exclusion for gain on sale of qualified small business stock
- Reduced recognition period for S corporation built-in gains tax
- Enhanced deduction for charitable contributions of food inventory
- Tax incentives for empowerment zones
- Indian employment credit
- Accelerated depreciation for business property on Indian reservations
- Special expensing rules for qualified film and television productions
- Mine rescue team training credit
- Election to expense advanced mine safety equipment
- Qualified zone academy bonds
- Low-income tax credits for non-federally subsidized new buildings
- Low-income housing tax credit treatment of military housing allowances
- Treatment of dividends of regulated investment companies (RICs)
- Treatment of RICs as qualified investment entities
- S corporations making charitable donations of property
- New York Liberty Zone tax-exempt bond financing
- Economic development credit for American Samoa

Not extended. Certain business provisions were not extended by the American Taxpayer Relief Act. These include:

- Enhanced deduction for corporate charitable contributions of book inventory;
- Enhanced deduction for corporate charitable contributions of computers;
- Tax incentives for the District of Columbia; and
- Expensing of brownfields remediation costs

ENERGY INCENTIVES

The American Taxpayer Relief Act extends a number of energy tax incentives, primarily business-related credits. The Act also extends the Code Sec. 25C non-business energy property credit.

Energy Credits For Individuals

The Code Sec. 25C credit is available to individuals who make energy efficiency improvements to their existing residence. The lifetime credit limit is $500 ($200 for windows and skylights) under the 2010 Tax Relief Act. The American Taxpayer Relief Act extends the credit at the $500 level through December 31, 2013.

Renewable Resources

The American Taxpayer Relief Act extends through 2013, the Sec. 45 production tax credit for facilities that produce energy from wind facilities. The Act also excludes recycled paper from the definition of municipal solid waste.

Other energy tax incentives extended by the American Taxpayer Relief Act through 2013, include:

- Credits for alternative fuel vehicle refueling property;
- Credits for cellulosic biofuel production;
- Credits for biodiesel and renewable diesel;
- Production credits for Indian coal facilities;
- Credit for energy-efficient new homes;
- Credit for energy-efficient appliances;
- Allowance for cellulosic biofuel plant property;
- Special rules for sales of electric transmission property; and
- Tax credits and outlay payments for ethanol.

No extension. Certain incentives have not been extended by the American Taxpayer Relief Act:

- Credits for refined coal facilities;

CONGRESS ALLOWS IRS TO LEVY ON THRIFT SAVINGS FUND ACCOUNTS

On January 1, 2013, the Senate approved by unanimous consent HR 4365, which clarifies that Thrift Savings Fund accounts are subject to federal tax levy. The House passed HR 4365 in July 2012.

The Federal Employees Retirement System Act of 1986 (FERSA) protects assets in Thrift Savings Fund accounts from levy, subject to certain exceptions. HR 4365 clarifies that the IRS can levy on Thrift Savings Fund accounts to collect unpaid taxes.

HR 4365 requires any revenue generated to be used solely for deficit reduction. In 2012, the Congressional Budget Office (CBO) estimated that HR 4365 would raise $24 million over 10 years.

- Percentage depletion for oil and gas from marginal wells; and
- Grants for certain energy property in lieu of tax credits.

AFFORDABLE CARE ACT

The American Taxpayer Relief Act amends several provisions of the Patient Protection and Affordable Care Act. The American Taxpayer Relief Act repeals the CLASS Program (a national voluntary insurance program) and reduces certain loan funding for the Consumer Operated and Oriented Plan program (CO-OP program).

IMPACT. *In 2011, HHS announced that it was suspending implementation of the CLASS program. The American Tax Relief Act formally repeals the CLASS program. The American Tax Relief Act authorizes the creation of a special commission to explore development of a long term care program.*

October 31, 2012

Non-Tax Reasons for Your Well-Tailored Estate Plan

When was the last time you took a good hard look at your estate plan? For many people, it has been years or even decades -- yet, the estate plan that was appropriate for your life and family even a few years ago may no longer make sense. Tax year 2012 is a good year for gifting and engaging in estate planning for tax reasons, as discussed in our Alert from earlier this year, Unprecedented Transfer Tax Planning Opportunity, issued March 19, 2012. However, in addition to reduction of federal and state transfer taxes, there are numerous non-tax reasons to review your estate plan.

Imagine if you will a beautiful designer jacket, hand-stitched, an interior lined with silk. But, as you slip that jacket on, you realize the sleeves are too short, the shoulders are too broad and the beautiful fabric is not your color. Estate plans, like clothes, are not "one size fits all", but instead should be carefully tailored to carry out your specific wishes. Aside from tax-driven decisions, the process of tailoring your estate plan requires a regular review in order to assure that your non-tax objectives are still sized right and properly addressed in your estate plan.

Your Estate Plan is More Than a Will

Your estate plan should include a will, but it may also include a revocable trust, which can help you plan for incapacity and avoid probate, and an insurance trust or other trust that provides a vehicle for tax planning. In addition to those instruments, there are other documents that make up your estate plans.

For example, you should have a power of attorney that appoints an agent to act for you in regard to your financial matters, as well as a living will (sometimes called an advance directive for health care) that expresses your wishes should you face serious illness, and a power of attorney for health care that appoints an agent to make health care decisions should you become incapacitated. (In some states, a living will might be combined with a power of attorney for health care into one document that can be referenced easily by a physician.)

In addition to instruments prepared by your estate planning attorney, your estate plan should also include retirement plans, insurance, and other accounts and benefits that transfer through beneficiary designation; and, in certain specific situations may include owning certain real property jointly with right of survivorship so that the death of one owner, the surviving owner automatically owns all of the property. You should review

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these beneficiary designations regularly to make sure that they are consistent with your current wishes and the rest of your estate plan.

Changes in Family Circumstances

If your family's circumstances have changed since you last reviewed your estate plan, there is a chance that your instruments no longer properly express your desires. All of the following are events that should trigger a review of your estate plan:

The birth of a child or grandchild -- Only in your will can you appoint a guardian for your minor child should something happen to you and your spouse. You can also make specific bequests, form a trust or start investing in a Section 529 college savings plan to help provide for education and support of children and grandchildren. Also, if any of your children or grandchildren have disabilities, you should consider setting up a special needs trust for their benefit to prevent them from being disqualified for government benefits that would otherwise be available to them.

Marriage -- At common law, marriage automatically invalidates a will made prior to the marriage. Although most states have adopted statutes that prevent this automatic invalidation, some states still provide for automatic invalidation of a will created prior to marriage. Additionally, if you have children from a prior marriage, you need to determine whether your estate plan provides for both your children and your current spouse. You may also want to make changes to the beneficiary designations on retirement accounts, insurance policies and bank accounts.

Divorce -- Many people do not consider the effect of divorce on certain beneficiary designations. For example, if you are divorced, have you changed the beneficiary designations on your insurance policies, retirement plans and bank accounts?

Death -- After the death of a loved one, it is difficult to make decisions or changes in your life. But after some time has passed, consider how that death impacts your estate plans. Was your loved one appointed as sole executor of your estate?

Changes in Professional Circumstances

If you have moved, changed jobs, retired or started your own business since you last reviewed your estate plan, there may be changes you need to make. The following are some considerations for each of these circumstances:

Relocation -- Some states require that a resident of that state serve as executor. Do your executor appointments still make sense?

Retirement or change in job -- If you have retired or changed jobs, your employment benefits have likely changed and there may be gaps you should address. For example, perhaps while you were working your

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employer offered life insurance as part of your benefits package, but now that you are retired that benefit may have lapsed.

Owning a successful business -- Many business owners do not consider succession planning early enough. If you are the owner of a business, have you considered transferring interests in the business to your children, your spouse or a third party? Additionally, if your business is organized as an LLC or a partnership, do your organizational documents provide for what happens if a member or partner dies? Laws regarding business entities have recently changed in many states and your organizational documents may not reflect these changes.

Lapse of Time

Time generally brings with it many of these major life events. However, even if you have had no major changes in your family or professional circumstances, simple lapse of time can make review of estate plans desirable. For example, if your children are now adults, perhaps you would like them to be named as executors or trustees under your instruments or as successors to serve in those roles should those originally appointed fail or cease to serve. If your children are now young adults, you might also consider having your estate planning attorney prepare powers of attorney and living wills for your children as well, so that someone will be able to make health care and financial decisions for them if needed. Perhaps you have come to realize that some of your beneficiaries are not very good at handling money and, therefore, should not receive outright distributions but instead should receive distributions in trust. Or, perhaps you have come to realize that you need to plan for the possibility of incapacity.

Conclusion

A well-tailored estate plan requires a thoughtful and deliberative process, taking into account both tax and non-tax considerations. If any one of these issues triggers a concern that you would like to discuss further, please contact any of the following attorneys in the Firm's Tax Department:

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July 26, 2012

Three Ways to Minimize Your Estate Tax

A major goal of estate planning is to minimize taxes during the transmission of wealth from one generation to another. Current historically-low interest rates environment presents unique opportunities to transfer wealth to children and more remote descendants.

For transfer tax purposes, virtually all forms of gifts are valued pursuant to one or more rates published by the Internal Revenue Service (IRS), which in turn are determined by current market conditions.

There are three tools you can use to minimize estate tax. Two of them – Grantor Retained Annuity Trusts (GRATS) and Charitable Lead Annuity Trusts (CLATS) – utilize the rates published by the IRS pursuant to Section 7520 of the Internal Revenue Code.

Rates Set By Internal Revenue Code

An excerpt of the historical Section 7520 rates is below, for each year determined for the month of January.

Year	Rate:
1990	9.6%
1995	9.6%
2000	7.4%
2005	4.6%
2010	3.0%
2012	1.4%

The third technique is to create a sale to an Intentionally Defective Grantor Trust (IDGT). The Applicable Federal Rate (AFR) is used to determine whether a gift is involved and the size of it, as prescribed by the IRS pursuant to Section 1274 of the Code.

Continued

An excerpt of the historical Section 1274 rates is below, again for each year determined for the month of January.

Year	Short Term	Mid Term	Long Term
1998	5.70%	5.93%	6.13%
2000	5.88%	6.21%	6.45%
2005	2.78%	3.76%	4.76%
2010	0.57%	2.45%	4.11%
2012	0.19%	1.17%	2.63%

All three techniques are detailed below.

Grantor Retained Annuity Trust

A GRAT involves the transfer of property expected to appreciate in value to a trust pursuant to which the grantor retains the right to an annuity in an amount set forth initially in the trust document. At the end of the term of the GRAT, the property remaining in the trust passes to donees selected by the grantor initially, usually in a lower generation than the grantor. The determination of whether a gift is made is determined with reference to the Section 7520 rate. If the property in trust increases in value more than the Section 7520 rate, it is possible to transfer substantial wealth to the next generation.

For example, a Grantor contributes property (or money) having a value of $1,000,000 to a GRAT, reserving an annuity of $100,000 per year for five years. Assume that the trust produces annual income of five percent of the value of the trust and appreciates in value by ten percent per year. Regardless of the Section 7520 rate, the next generation will receive property with a value of $1,355,731. The amount of the taxable gift depends on the Section 7520 rate at the time of inception of the trust as shown below:

Section 7520 Rate	Amount of Taxable Gift
1.40%	$520,330
5.00%	$567,050
10.00%	$620,920

The current low interest rate environment also increases the potential benefits of a "zeroed-out" GRAT. In a zeroed-out GRAT, the total value of the annuity payments to the grantor is as close as possible to the value of the contributed property plus appreciation at the Section 7520 rate. Because the entire actuarial value of the trust is payable to the grantor, the taxable gift resulting from the formation of a zeroed-out GRAT is typically less than $1.00. If the grantor is still living at the end of the trust term, the remaining property in the trust after payment of the final annuity payment passes to the next generation gift-tax free. The annuity required to zero out the GRAT assumes a return on the GRAT investments at the Section 7520 rate, so a lower Section

Continued

7520 rate allows for lower annuity payments to the Grantor and increases the amount passing free of gift tax to the next generation. For example, using the same numbers from the example above, except for annuity payments that zero out the value of the GRAT, the annual annuity payments and the remainder passing gift tax free to the next generation are shown below:

Section 7520 Rate	Amount of Annuity	Remainder to Beneficiaries
1.40%	$208,476.60	$620,711.73
5.00%	$230,973.50	$468,276.41
10.00%	$263,796.50	$245,873.14

Charitable Lead Annuity Trust

A CLAT is a form of split interest trust with the initial interest payable to a charity and the remainder interest after a term specified at the inception of the trust that reverts to either the grantor or to or for the benefit of other non-charitable beneficiaries. The grantor is entitled to an income tax and gift tax deduction for the charity's interest if the charity's interest is in the form of a guaranteed annuity interest.

If the trust is structured as a grantor trust for income tax purposes (i.e., the grantor is treated as the owner of the trust for income tax purposes), the grantor is entitled to an income tax deduction on the inception of the trust for the value of the charity's interest.

Using the same numbers as above, assume that the grantor contributes property worth $1,000,000 to a CLAT, which provides an annuity of five percent per year to charity for ten years. The table below illustrates the amount of the income tax deduction at various levels of the Section 7520 rate.

Section 7520 Rate	Amount of Deduction
1.40%	$463,560
5.00%	$386,085
10.00%	$307,230

Intentionally Defective Grantor Trust

An IDGT is a trust which is disregarded for income tax purposes but which is respected for transfer tax purposes. Its principal use is to transfer property likely to appreciate in value more than prevailing interest rates without incurring income tax on its disposition. A common use for IDGTs is to sell appreciated property to the trust in exchange for an interest-bearing promissory note.

There are several techniques for creating a trust which will be disregarded for income tax purposes but respected for transfer tax purposes. One commonly used technique is to provide in the trust document a power in the trustee (who cannot be the grantor) the ability to add charitable beneficiaries to the trust.

Continued

While there is no statutory safe harbor for the interest rate to be borne by the promissory note, most practitioners believe that using a rate at least equal to the AFR will protect such a sale from being questioned by the IRS, especially if the borrowing entity has at least ten percent equity in the transaction and the transaction is adequately secured.

The table below illustrates the results of creating an IDGT with an initial principal of $100,000 and selling to the trust property with a value of $1,000,000, taking back a ten-year note providing for interest at the rate equal to the long term AFR and payable in equal annual installments of principal and interest. It is further assumed that the property in trust produces income equal to nine percent of the beginning of year value of the trust. The amount of the gift is the same in all scenarios, which is the $100,000 initial equity in the trust.

Long Term AFR	Amount Remaining When Note is Fully Paid
2.50%	$868,174
4.00%	$730,950
6.00%	$539,868

What You Should Know

As can be seen, the current low interest rate environment is very conducive to the tax-free transmission of wealth. This type of planning has recently taken on increased urgency, as all of the techniques described above have been targeted for statutory elimination or curtailment and their continued availability is uncertain.

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January 8, 2013

The American Taxpayer Relief Act of 2012: Some Tax Certainty in an Uncertain World

On January 1, 2013, Congress averted the fiscal cliff with the passage of the American Taxpayer Relief Act of 2012 (Act), which was enacted when President Obama signed the Act on January 2, 2013. The Act provides a welcome degree of certainty about tax rates by eliminating the "sunset" provisions of the 2001 and 2003 tax cuts, though it includes tax increases on some higher income and net worth individuals.

For the past decade, uncertainty was ever present as to whether the lower tax rates included in the Economic Growth and Tax Relief Reconciliation Act of 2001 and the Jobs and Growth Tax Relief Reconciliation Act of 2003 (together, known as EGTRRA) would sunset according to their terms at the end of 2010. Such uncertainty frustrated taxpayers and their advisors, creating an atmosphere which often paralyzed needed tax planning. Congress postponed the uncertain tax climate in late 2010, extending the EGTRRA lower rates for two additional years through 2012 in the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.

Under the current Act, extension of lower tax rates are sometimes described as "permanent" because they are no longer subject to expire automatically after a period of time -- even though tax laws can, and almost certainly will, continue to change based on political pressures. The removal of the sunset provisions offers an increased degree of stability, however, and should bring some comfort to taxpayers and their advisors.

Following is a brief summary of many of the tax provisions within the Act. Stay tuned for more detailed analysis of specific provisions and planning opportunities under the Act in forthcoming Alerts.

Individual Income Taxes

Income Tax Rates: The Act permanently extends the reduced individual income tax rates under EGTRRA, so there will be no change to most individuals' tax rates under the Act. But the Act imposes a 39.6 percent tax rate bracket for "high-income taxpayers" that applies to income over a threshold amount, which will be adjusted for inflation in future years. The initial threshold amounts are:

- $400,000 for single individuals;
- $450,000 for married individuals filing joint returns;
- $425,000 for heads of households; and
- half of the married filing jointly threshold amount for married individuals filing separate returns.

The Act also permanently extends the "marriage penalty" reduction provisions that set the 15 percent regular income tax rate bracket for a married couple filing a joint return at 200 percent the corresponding rate bracket for an unmarried (single) individual.

Continued

The following tables illustrate the projected 2013 tax brackets under the Act for single individuals and for married individuals filing joint returns.

Table 1. Projected 2013 Rates - Single Individuals

Taxable Income Over	But Not Over	Pay	% on Excess	Of the amount over
$0	$8,925	$0	10%	$0
$8,925	$36,250	$892.50	15%	$8,925
$36,250	$87,850	$4,991.25	25%	$36,250
$87,850	$183,250	$17,891.25	28%	$87,850
$183,250	$398,350	$44,603.25	33%	$183,250
$398,350	$400,000	$115,586.25	35%	$398,350
$400,000		$116,163.75	39.6%	$400,000

Table 2. Projected 2013 Rates - Married Filing Jointly

Taxable Income Over	But Not Over	Pay	% on Excess	Of the amount over
$0	$17,850	$0	10%	$0
$17,850	$72,500	$1,785	15%	$17,850
$72,500	$146,400	$9,982.50	25%	$72,500
$146,400	$223,050	$28,457.50	28%	$146,400
$223,050	$398,350	$49,919.50	33%	$223,050
$398,350	$450,000	$107,768.50	35%	$398,350
$450,000		$125,846.00	39.6%	$450,000

Capital Gains and Qualified Dividend Rates: Since 2003, taxpayers have enjoyed a maximum tax rate of 15 percent on long-term capital gains. In addition, qualified dividends received by individuals have been taxed at the capital gain rate rather than being treated as ordinary income. The Act permanently extends the 15 percent capital gains and dividend rates for most taxpayers. But the Act adds 20 percent capital gains and dividend rates for taxpayers with annual income in excess of the income tax threshold amounts described above (currently $400,000 for individuals and $450,000 for married individuals filing joint returns).

Alternative Minimum Tax (AMT): The Act permanently increases the AMT exemptions retroactively beginning with the 2012 tax year, and provides that the AMT exemptions will be indexed for inflation starting in 2013. As a result, Congress will hopefully no longer have to pass annual “patches” to prevent the AMT from applying to lower income taxpayers. The 2012 AMT exemption amounts are:

- $50,600 for unmarried individuals;
- $78,750 for married individuals filing joint returns; and
- Half of the married filing jointly exemption amount for married individuals filing separate returns.

Continued

Also, effective retroactively for tax years beginning with the 2012 tax year, the Act permanently allows nonrefundable personal credits to offset both regular tax liability and AMT liability.

Limitations on Itemized Deductions and Phase-Outs of Personal Exemptions: Beginning in 2013, itemized deductions of higher income taxpayers will be reduced by 3 percent of the amount by which the taxpayer's adjusted gross income exceeds an applicable amount, but the reduction is limited to 80 percent of the otherwise allowable itemized deductions. This limitation does not apply to deductions for medical and dental expenses, investment interest and casualty and theft losses.

Also beginning in 2013, personal exemptions of higher income taxpayers will be reduced by 2 percent for each $2,500 (or portion thereof) by which the taxpayer's adjusted gross income exceeds the applicable amount.

The same applicable amounts are used to determine both the reductions of itemized deductions and the phase-outs of personal exemptions. The applicable amounts are indexed for inflation for years after 2013. The 2013 applicable amounts are:

- $250,000 for single individuals;
- $300,000 for married individuals filing joint returns;
- $275,000 for heads of households; and
- half of the married filing jointly applicable amount for married individuals filing separate returns.

Other Changes and Extensions: The Act includes extensions of a number of individual tax provisions, some of which are permanent, and others of which are temporary. The following are some of the provisions extended or otherwise modified by the Act:

- Permanent and Temporary Extensions of Child Tax Credit: The maximum child tax credit is permanently continued at $1,000 and the credit remains refundable. The credit is generally refundable to the extent of 15 percent of the taxpayer's earned income above $10,000 (indexed for inflation). The Act also extends for five years (through 2017) the 2009 expansions of the credit allowing earnings above $3,000 to count toward refundability and including an alternative formula to calculate the credit for families with three or more qualifying children.
- Permanent Extension of Expanded Credit for Dependent Care Expenses: The Act permanently extends the 35 percent applicable percentage used to determine the amount of expenses that are allowed as a credit and dollar limitations for qualified expenses to $3,000 for one qualifying individual and $6,000 for two or more qualifying individuals.
- Five Year Extension of Expanded Earned Income Tax Credit: The Act extends for five years (through 2017) the 2009 increase of the earned income tax credit for families with three or more children and increased income thresholds for phase-out of the credit for married individuals filing joint returns.
- Permanent Extension of Increased Adoption Credit and Adoption Assistance Programs: The Act permanently extends the $10,000 adoption credit and $10,000 exclusion for adoption expenses paid by an employer.
- Education Provisions:
    - Interest on Education Loans: The Act permanently extends EGTRRA's elimination of the 60-month limit for the above-the-line deduction of up to $2,500 of the interest on qualified education loans and the increased income thresholds for phase-outs of the deductions.
    - Qualified Tuition and Related Expense: The Act extends through 2013 the above-the-line deduction for qualified tuition payments and certain related expenses.

Continued

- o Coverdell Educational Savings Accounts: The Act permanently extends a number of favorable 2001 and 2004 changes to Coverdell education savings accounts (also known as Educational IRAs), including the increased maximum annual contributions of $2,000, an expanded definition of qualified education expenses that permits elementary and secondary education expenses to be paid from these accounts, and the allowance of current-year contributions until April 15 of the following year.
- o American Opportunity Tax Credit: The Act extends for five years (through 2017) the 2009 modifications to the American Opportunity Tax Credit that provides a partially-refundable tax credit for 100 percent of the first $2,000 of tuition and related expenses and up to 25 percent of the next $2,000 of tuition and related expenses, subject to a phase-out for taxpayers with income over $80,000 ($160,000 for married individuals filing joint returns).
- o Employer-Provided Educational Assistance: The Act permanently extends the exclusion by an employee of up to $5,250 per year of employer-provided educational assistance.
- o Exclusion of Scholarships: The Act permanently extends the inclusion of scholarships under the National Health Service Corps Scholarship Program and the F. Edward Herbert Armed Forces Health Professions Scholarship and Financial Assistance Program within scope of qualified scholarships that can be excluded from income by the recipient.

• Extensions Through 2013: The Act extends through 2013 a number of temporary tax deductions, credits and incentives for individuals that expired at the end of 2011 or that would expire at the end of 2012. Following are some of the provisions that have been extended:

- o The above-the-line deduction for expenses up to $250 for educational materials purchased by elementary and secondary school teachers.
- o The exclusion from income of forgiven mortgage debt up to $2 million ($1 million if married filing separately).
- o exclusion from income for employer-provided transit and vanpool benefits of up to $240 per month.
- o The deduction for qualified mortgage insurance premiums on a qualified personal residence, which is ratably phased-out for taxpayers with gross income between $100,000 and $105,000 (or between $50,000 and $55,000 for married taxpayers filing separate returns).
- o The permitted deduction of state and local sales taxes in lieu of deducting state and local income taxes.
- o The special rules increasing the limits on charitable deductions for contributions of capital gain real property for conservation purposes and for contributions by certain corporate farmers and ranchers.
- o The allowance of tax-free distributions of up to $100,000 per year to charities from an individual retirement account by taxpayers age 70 or older. The Act also includes transition rules that allow taxpayers to treat distributions to charities made in January 2013 as having been made on December 31, 2012, and to treat distributions made in December 2012 that are paid to a charity in January 2013 as qualified charitable distributions.

Business Income Taxes

The following is a brief non-exhaustive summary of some of the Act's significant changes related to businesses.

R&D Credit: The Act reactivates the research and development tax credit which expired on December 31, 2011 retroactively for qualifying expenses incurred from January 1, 2012 through December 31, 2013. The rules for taxpayers under common control are modified under the Act for purposes of computing the R&D credit when a change of control occurs for a major portion of a trade or business.

Low-Income Tax Credit Rate for Non-Federally Subsidized Buildings: The Act reactivates the low-income tax credit of 9 percent for newly constructed non-federally subsidized buildings placed in service after July 30, 2008 for the housing credits allocated prior to January 1, 2014.

Continued

New Markets Tax Credits: The Act provides that the 2010 and 2011 new markets tax credits of $3.5 billion in qualified equity investments are to be carried forward and used in 2012 and 2013. Unused new market tax credits may be carried forward to 2018.

Work Opportunity Credit: The Act extends the work opportunity credit for individuals who were employed prior to January 1, 2014.

Qualified Zone Academy Bonds: The Act extends the $400 million in bond volume for 2012 and 2013. Qualified Zone Academy Bonds enable the holder a federal tax credit in lieu of interest.

15-Year Straight-Line Recovery for Qualified Leasehold Improvements: The Act extends the 15-year cost recovery period for certain leasehold improvements, restaurant buildings and improvements, and retail improvements placed in service before 2014.

Increased Expensing Limitation and Treatment of Qualified Property as Section 179 Property: The Act reinstates the special rules applying Section 179 to qualified real property and the allowance of $250,000 of the costs of the real property to be Section 179 through 2013.

Extension and Modification of Bonus Depreciation: The Act extends the Section 168(k) 50 percent bonus depreciation for qualified property acquired and placed in service prior to January 1, 2014. Additionally, the Act provides that corporate taxpayers may elect to accelerate the AMT and research credits instead of bonus depreciation.

Special Expensing Rules for Certain Film and Television Productions: The Act extends the special expensing rules allowing film and television producers to expense the initial $15 million of productions costs of qualified film and television productions incurred prior to January 1, 2014.

Exclusion of 100 Percent of Gain on Small Business Stock: The Act extends the exclusion of gains from the sale of qualifying small business stock acquired prior to January 1, 2014 that is held at least five years. Generally, qualifying small business stock is C-corporation stock where the corporation's aggregate gross receipts are not in excess of $50 million and the corporation satisfies the active business requirements. The total amount of gain eligible for the exclusion is the greater of 10 times the taxpayer's basis in the stock or $10 million of gain from the sale of the small business stock.

Extension of Reduction in S-Corporation Recognition Period for Built-In Gains Tax: The Act extends the recognition period of five years for purposes of computing the recognition period for the built-in gains tax. The recognition period begins with the first day of the first taxable year for which the entity elected S-corporation status.

30 Percent Exemption of Certain Dividends of Regulated Investment Companies: The Act extends the exemption from the 30 percent withholding tax for qualified interest related dividends and short term capital gain dividends under the Foreign Investment in Real Property Act.

Continued

Estate and Gift Taxes

Inflation-Indexed and Portable $5 Million Exemption is Now Permanent: The Act makes the $5 million unified exemption for gift, estate and generation-skipping transfer taxes permanent, and the exemption continues to be indexed for inflation. The unified exemption for 2013 is projected to be $5.25 million, up from the 2012 indexed unified exemption amount of $5.12 million. The Act also permanently extends portability of the unified exemption, which allows a surviving spouse to make use of a deceased spouse's unused unified exemption, and which was first introduced in the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.

Increase in Tax Rate for High Wealth Individuals: The Act increases the maximum transfer tax rate to 40 percent in 2013, from the 35 percent maximum rate applicable to transfers made in 2011 and 2012.

Summary

This Alert is intended to be a general review of some of the tax provisions of the Act, and is not intended as advice under any specific facts and circumstances. Tax planning in these uncertain times starts with an understanding of your specific facts and circumstances. As a result, taxpayers should consider consulting with their tax advisors to discuss how the Act will impact them and strategies available to them now that the Act has passed.

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Publications & Speaking Engagements

- Author – "KFC Franchise Guarantors Not Subject to Mint Julep Jurisdiction," *Hospitalitas* Newsletter Issue 3, November 2012
- Co-author – "Delivery and Updating" chapter, *American Bar Association Forum on Franchising FTC Franchise Rule*, 2012
- Author – "FTC Modifies Franchise Rule," *Hospitalitas* Newsletter Issue 2, August 2012
- Co-author – "Join the Crowd – Is Franchising Uniquely Suited for Crowdfunding?" *Hospitalitas* Newsletter Issue 2, August 2012
- Co-author – "Franchisee's Disregard of LLC Formalities Creates Exposure for LLC Debts," *Hospitalitas* Newsletter Issue 2, August 2012
- Author – "Franchisor's Addendum Enhances Franchisee's Right to Assign Store Lease," *Hospitalitas* Newsletter Issue 1, February 2012
- Author – "Are Shuttle Drivers Franchisees or Employees? Ninth Circuit Wants Lower Court to Decide," *Hospitalitas* Newsletter Issue 5, December 2011
- Featured – "The Rights Guard: What Floats Franchise Attorney Joel Buckberg's Boat After Hours," *Franchise Times*, June/July 2011
- Speaker – "The Franchise System Post-Private Equity Investment," IFA 2011 Legal Symposium, Washington, D.C., May 16-17, 2011
- Speaker – "Fran-Guard: Sales Management and Compliance," 2011 International Franchise Association's 51st Annual Convention, Las Vegas, February 2011
- Author – "Oregon Affirms Commitment to Franchisee as Employee Ruling," *Hospitalitas* Newsletter Issue 1, January 2011
- Featured – "A Must-Read Q&A With Attorney Joel Buckberg," Franchise Times SuperBook, October 2010

- Co-author – "Healthcare and Franchising–Compatible or Contraindicated?" *Business Law and Governance*, AHLA, October 2010
- Author – "Tough Locations Produce Complex Litigation," Baker Donelson *Hospitalitas* Newsletter 2010, Issue 3, September 2010
- Co-author – "Does Your Point of Sale System Comply with PCI and New State Statutes?" *The Business Lawyer*, January 2010
- Co-author – "Annual Franchise and Distribution Law Developments 2009," American Bar Association Forum on Franchising, October 2009
- Author – "Franchisee Tips for Troubled Times," *HotelWorld Network*, March 18, 2009
- Co-author – "Disclosure Law Violations: Understanding the Penalties," *Franchising World*, August 2008
- Author – "Franchise Compliance Sets the Tone," *Franchising World*, November 2007
- Author – "When Private Equity Knocks, Will You Be Ready to Answer?" about private equity in LJN's *Franchising Business & Law Alert*, August 2007
- Co-author – "Legal Issues Arising from the Ownership of Competing Franchise Systems," American Bar Association Forum on Franchising (October 1999)
- Author – "Dealing with Franchisees in the Workout Process," in *The Real Estate Workout Deskbook* (H. Zuckerman, ed., Probus Publishing, Chicago 1992)
- Frequent Contributor to *Franchise Times* magazine and *Lodging Business*, the magazine of the Asian American Hotel Owners' Association.
- Lectured on the subject of condominium hotels at the Annual Meeting of the International Bar Association
- Frequent lecturer on domestic and international franchising and hospitality at programs sponsored by International Franchise Association, American Bar Association Forum on Franchising, The Lodging Conference, and Cardozo Law School.

Professional Honors & Activities

- President and founder – National Franchise Council, 1998 – 2000; Chairman, 2000 – 2003
- Chairman – International Franchise Association Legal Legislative Committee and Corporate Counsel Committee, 1997 – 98
- Administrator – International Franchise Association Franchise Compliance Training Program, 2007 – 2011
- Trainer – FRAN-GUARD franchise compliance training program, 2010 – present
- Member – American Hotel & Lodging Association General Counsel Committee
- AV® Preeminent™ Peer Review Rated by Martindale-Hubbell
- Listed in *Best Lawyers in America*® in the area of Franchise Law since 2008
- Named to *Who's Who Legal: The International Who's Who of Business Lawyers* since 2009

- Named to *The International Who's Who of Franchise Lawyers,* 2008, 2011, 2012
- Named to "Legal Eagles" by *Franchise Times,* 2007 – 2012
- Named to "20 People to Watch in Franchising" by *Franchise Times,* November 2001
- Named to "New Jersey's Top Rated Lawyers" by *ALM*, 2012
- Member – Board of Trustees, Immune Deficiency Foundation

Admissions

- Texas , 1980
- Georgia , 1981
- New Jersey , 1994
- Tennessee , 2006

Education

- Vanderbilt University School of Law, J.D. 1980; M.B.A., 1980
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Mr. Stephenson concentrates his corporate practice on corporate finance, regulatory compliance, debt and equity offerings, governance and structuring, negotiating and documenting complex business transactions, including mergers and acquisitions, venture capital and private equity funds. Prior to attending law school, he worked with Ernst & Young in the tax consulting practice group focusing primarily on insurance and banking clients.

Publications

- Co-author – "IRS Auditing Update: Agents Now Want Full Data Copies of QuickBooks," *Hospitalitas* newsletter, September 2011

Professional Honors & Activities

- Member – American Institute of Certified Public Accountants
- Member – Alabama State Board of Public Accountancy
- Member – Tennessee Bar Association
- Certified Public Accountant (inactive)

Admissions

- Tennessee, 2010

Education

- New York University School of Law, LL.M. in taxation, 2011
- University of Mississippi School of Law, J.D., 2010, magna cum laude
  - *University of Mississippi Law Journal*
- Samford University, M.Acc., 2004
- Samford University, B.S., 2004

O. SuzAnne Eubanks, CPA, CGMA

SuzAnne is a franchise partner concentrating on tax and small business consulting while assisting with the administration of the service line. SuzAnne primarily focuses on consulting to franchisors and franchisees in various brands of the franchise industry. She also serves on HORNE LLP's personnel committee.

SuzAnne joined HORNE in 1989 and has more than 20 years of comprehensive franchise industry experience. SuzAnne participates in conventions and tradeshows related to the franchise industry and concentrates in tax and leadership development.

SuzAnne earned a Bachelor of Science in Accounting, Bachelor of Science in Finance, and a Master of Accounting Degree from the University of South Alabama. SuzAnne is a designated Chartered Global Management Accountant. She also earned a Master of Arts in Christian Education from Temple Baptist Theological Seminary.

Professional Affiliations

- American Institute of Certified Public Accountants
- Tennessee Society of Certified Public Accountants
    - Federal Tax Committee
    - Continuing Professional Education Committee, Chairman (Nashville Chapter)
- Mississippi State Board of Public Accountancy
- Alabama State Board of Public Accountancy

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Dwight currently serves as the Division President of First State Bank's Small Business Lending Division (SBLD). The SBLD's lending focus is on small business loans originated in Tennessee and surrounding states, utilizing the Small Business Administration and the U.S. Department of Agriculture Business and Industry government guaranteed lending programs.

Dwight graduated with honors from the University of Tennessee in Knoxville in 1986 with a B. S. in Business Administration, and a major in Finance. He has graduate school hours in accounting and is a graduate of the Southeastern School of Banking and the Southeastern School of Advanced Commercial Lending. Dwight has over 19 years of SBA/USDA specific experience in credit administration manager, underwriting, closing, construction, loan sales, servicing and liquidation. He has consistently maintained excellent relationships with multiple SBA district offices and the national processing centers. As evidence to this fact, First State's SBLD is recognized as a national Preferred Lender with SBA, giving First State the ability to approve its own loans on behalf of SBA.

Dwight has served as an instructor for the National Association of Government Guaranteed Lenders (NAGGL) as well as serving multiple terms on the Lender Advisory Council for the National Association of Development Companies (NADCO).

Mark Zinder Biography

Mark Zinder is a seasoned financial professional and keynote speaker with a unique gift for making the complicated clear as he examines the trends and ideas actively reshaping business today.

Mark came to the financial industry twenty-nine years ago. He began his career as an investment advisor with Dean Witter. Supported by his strength and experience in communications, he quickly gained acclaim for his public seminars and became recognized by the community as a powerful and entertaining speaker.

By 1993, Mark was a new hire at Franklin Templeton Investments, and it wasn't long before his speaking skills caught the attention of management. They named him Senior Vice President and National Spokesman. His job was to sit down with Sir John Templeton, Dr. Mark Mobius, and Michael Price, listen to their stories, and then travel the world speaking on their behalf.

It was a golden opportunity that gave Mark the privilege to become Sir John Templeton's spokesman, an experience Mark credits with developing his understanding of the financial markets and the perspectives of investors. In 2004, Mark started his own firm, Mark Zinder and Associates.

For more than sixteen years Mark has traveled the country and the world as a speaker, trainer, writer, and coach to investment advisors and wholesalers for major investment firms. His unique style instantly brings audiences to attention, and his memorable stories help them understand and retain valuable lessons about market history, investor behavior, and financial trends.