



## Lame-Duck Tax Law Highlights

Death and taxes, together as always. The major tax legislation passed in December has wide-ranging content, but the most-awaited part surely had to be the provisions relating to the estate tax. We're summarizing the new provisions here; please let us know if you'd like more information.

### Income Tax Rates

- The single largest element of the law is the extension of the Bush-era tax cuts for two more years. Marginal income tax rates will remain unchanged from 2010, at 10%, 15%, 25%, 28%, 33% and 35%, rather than going to the previously-scheduled rates of 15%, 28%, 31%, 36%, and 39.6%.
- Capital gains rates also remain unchanged, at 0% for taxpayers in the 10 and 15% ordinary income tax brackets, and 15% for all others. These were scheduled to rise to 10% and 20%, respectively. And qualified dividends will remain taxed at 15%, rather than a taxpayer's marginal ordinary income tax rate.

### Payroll Tax Cut

- The law reduces the employee's share of Social Security taxes, from 6.2% to 4.2%, for 2011 only. It doesn't reduce the employer's share. So for someone earning the Social Security maximum wage base of \$106,800, payroll taxes will drop by \$2,136.

### Estate Tax

- The law revived estate tax (there was no federal estate tax for deaths in 2010), but with much higher exclusions, and much lower tax rates, than in 2009. Now, each person can pass up to \$5 million to non-spouse, non-charitable beneficiaries before hitting estate tax (that figure was \$3.5 million in 2009, and before this tax law was passed, was scheduled to drop to \$1 million this year).
- The highest tax rate on estates will drop from 45% to 35%.
- Both of these provisions are for two years only: 2011 and 2012. Our Kiplinger Tax Letter, which gives us biweekly updates on what's brewing, tax-wise, tells us they expect lawmakers to continue the current rules at that time, but it's way too early to tell.
- The new law also introduces "portability". With portability, each married couple has \$5 million x 2, or \$10 million to pass to non-spouse, non-charitable heirs before hitting estate tax. Whatever of the first spouse to die's \$5 million exclusion is not used at his/her death can be carried over and used at the second spouse's death. Doing this used to be possible, but it required creating trusts in both spouses' wills, and funding the trust at the first spouse's death.