



Tax Policy Center

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TAX PROVISIONS IN THE AMERICAN TAXPAYER RELIEF ACT OF 2012 (ATRA)

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ABSTRACT

The fiscal cliff debate culminated in the passage of the American Taxpayer Relief Act of 2012 (ATRA). ATRA makes permanent most of the tax cuts enacted in 2001 and 2003, permanently patches the alternative minimum tax, extends for five years the enhancements to individual income tax credits originally enacted in the 2009 stimulus legislation, and temporarily extends certain other tax provisions. This paper provides a detailed description of the individual, corporate, and estate tax provisions in ATRA.

Tax Provisions in the American Taxpayer Relief Act of 2012 (ATRA)¹

A. Permanent Extension of 2001 Tax Cuts

(1) Tax Rates and Brackets

The American Taxpayer Relief Act (ATRA) permanently extends the 10 percent bracket enacted by the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) for 2013 taxable income up to \$17,850 for married couples filing a joint return (\$8,925 for singles and \$12,750 for heads of household). The taxable income thresholds are indexed for inflation after 2013.

ATRA permanently extends the reduction in the 28, 31, and 36 percent tax rates to 25, 28, and 33 percent. It also makes permanent the reduction in the top tax rate from 39.6 percent to 35 percent but only for taxable income up to \$450,000 for married couples filing a joint return (\$400,000 for singles and \$425,000 for heads of household). The rate for taxable income greater than those thresholds remains at 39.6 percent. The threshold for the 39.6 percent bracket is indexed for inflation after 2013. Under ATRA, the individual income tax rates and brackets for 2013 are

<u>If your filing status is Single</u>			<u>If your filing status is Married filing jointly</u>		
<u>Taxable Income</u>			<u>Taxable Income</u>		
Over ---	But not over ---	Marginal Rate	Over ---	But not over ---	Marginal Rate
\$0	\$8,925	10%	\$0	\$17,850	10%
\$8,925	\$36,250	15%	\$17,850	\$72,500	15%
\$36,250	\$87,850	25%	\$72,500	\$146,400	25%
\$87,850	\$183,250	28%	\$146,400	\$223,050	28%
\$183,250	\$398,350	33%	\$223,050	\$398,350	33%
\$398,350	\$400,000	35%	\$398,350	\$450,000	35%
\$400,000	and over	39.6%	\$450,000	and over	39.6%

<u>If your filing status is Head of Household</u>			<u>If your filing status is Married filing separately</u>		
<u>Taxable Income</u>			<u>Taxable Income</u>		
Over ---	But not over ---	Marginal Rate	Over ---	But not over ---	Marginal Rate
\$0	\$12,750	10%	\$0	\$8,925	10%
\$12,750	\$48,600	15%	\$8,925	\$36,250	15%
\$48,600	\$125,450	25%	\$36,250	\$73,200	25%
\$125,450	\$203,150	28%	\$73,200	\$111,525	28%
\$203,150	\$398,350	33%	\$111,525	\$199,175	33%
\$398,350	\$425,000	35%	\$199,175	\$225,000	35%
\$425,000	and over	39.6%	\$225,000	and over	39.6%

¹ This is not a completely exhaustive description of the provisions but provides an outline of the major pieces of the legislation. See the Joint Committee on Taxation's revenue estimates for a complete list of the provisions: <https://www.jct.gov/publications.html?func=startdown&id=4497>.

(2) Limitation on Itemized Deductions and Personal Exemption Phase-out

The personal exemption phase-out (PEP) reduces a taxpayer's exemption amount (\$3,900 per person for the taxpayer, spouse, and any dependents for 2013) by 2 percent for each \$2,500 (or fraction thereof) by which the taxpayer's adjusted gross income (AGI) exceeds a specified threshold.

The limitation on itemized deductions ("Pease") reduces the value of certain itemized deductions by 3 percent of the amount by which AGI exceeds a specified threshold.² The total reduction cannot exceed 80 percent of the value of itemized deductions.

ATRA reinstates and makes permanent both Pease and PEP but raises the AGI threshold at which they begin to take effect to \$300,000 for married couples filing a joint return (\$250,000 for singles and \$275,000 for heads of household). The AGI thresholds are indexed for inflation after 2013. Under pre-ATRA law for 2013, the threshold for Pease would have been \$178,150 and the threshold for PEP would have been \$267,200 for married couples filing jointly (\$178,150 for singles and \$222,700 for heads of household).³

(3) Child Tax Credit

ATRA makes the increase in the per-child amount of the child tax credit (CTC) from \$500 to \$1,000 permanent, not indexed for inflation. It also makes permanent the additional CTC, which provides for the credit to be refundable up to 15 percent of earned income in excess of \$10,000 (indexed for inflation after 2001).⁴ ATRA also permanently allows the CTC, regardless of a taxpayer's tentative alternative minimum tax (AMT).⁵

(4) Marriage Penalty Relief

ATRA permanently sets the standard deduction for married couples at twice the value for single individuals (\$12,200 for married couples in 2013; under pre-ATRA law the value would have been \$10,150). In addition, the legislation permanently sets the width of the 15 percent bracket at twice the width for singles.

ATRA permanently extends the \$3,000 increase in the income level at which the earned income tax credit (EITC) begins to phase out for married couples filing jointly. The \$3,000 amount is indexed for inflation after 2008.⁶ ATRA also makes permanent several simplification provisions for the EITC first enacted by EGTRRA.

² Pease does not apply to itemized deductions for medical expenses, investment interest, or casualty and theft losses. Pease also does not apply for alternative minimum tax purposes.

³ Under pre-ATRA law, the threshold for Pease would not have differed by filing status.

⁴ See below for a description of the additional temporary enhancements ATRA makes to the CTC.

⁵ Under pre-ATRA law for 2013 and thereafter, the CTC would have been limited by the excess of the taxpayer's regular tax liability over the amount they would owe under the AMT rules (their "tentative AMT"). Thus, taxpayers who would not technically owe any AMT liability—because their regular tax exceeded their tentative AMT—could still have their CTC (and certain other credits) limited by the alternative tax. ATRA permanently repeals this limitation.

⁶ See below for a description of the additional temporary enhancements that ATRA makes to the EITC.

(5) Education and Other Provisions

ATRA makes permanent the expansion to the deduction for student loan interest enacted by EGTRRA. It raises the income range over which the deduction phases out to \$50,000-65,000 for single individuals and to \$100,000-130,000 for married couples filing jointly. The thresholds are indexed for inflation after 2002: for 2013, the starting points of the phase-outs are \$60,000 for singles and \$125,000 for married couples. ATRA also permanently allows the deductibility of voluntary payments of interest, and permanently repeals the 60-month limit during which interest paid is deductible.

ATRA permanently extends the exclusion from income of employer-provided educational assistance for both undergraduate and graduate-level courses.

ATRA also permanently extends the increase in the maximum credit rate for the child and dependent care tax credit (CDCTC) from 30 to 35 percent, the increase in the maximum eligible expenses from \$2,400 to \$3,000 (\$4,800 to \$6,000 for two or more eligible children), not indexed for inflation, as well as the increase in the start of the CDCTC credit rate phase-down from \$10,000 to \$15,000 of AGI.

ATRA permanently extends the expansion to the adoption credit enacted by EGTRRA and allows the credit regardless of tentative AMT. It increases the expense limit and the exclusion from income for employer-provided adoption assistance to \$10,000 for both special needs and non-special needs children and makes the credit and exclusion available regardless of expenses for special needs children. ATRA also makes permanent the increase in the phase-out start point to \$150,000 of income. ATRA indexes both the \$150,000 phase-out threshold and the \$10,000 limit for inflation, resulting in values of \$191,530 and \$12,770 for 2013. ATRA did not extend the refundability of the adoption credit first enacted by the Affordable Care Act.

(6) Estate and Gift Tax

ATRA permanently extends and modifies the estate tax provisions in EGTRRA and subsequently modified by the 2010 Tax Relief Act. It retains a unified exemption for estate and gift tax purposes of \$5 million, indexed for inflation after 2011 (\$5.25 million for 2013) but raises the estate and gift tax rate from 35 percent to 40 percent. It makes permanent the portability of the exemption between spouses, allowing a decedent to elect to permit the surviving spouse to claim any unused exemption amount.

Under pre-ATRA law, in 2013 the estate tax would have reverted to a \$1 million exemption with a 55 percent top statutory rate, with an additional 5 percent surtax on the value of certain estates. In addition, the credit for state-level wealth transfer taxes would have been restored. ATRA instead makes permanent the deduction for state-level taxes enacted by EGTRRA.

B. Permanent Extension of 2003 Tax Cuts

(1) Capital Gains

ATRA makes permanent the reduction in the preferential tax rate for long-term capital gains from 20 percent to 15 percent for those with non-gain taxable income less than the threshold for the top tax bracket. It also makes permanent the rate reduction from 10 percent to 0 percent for those with non-gain taxable income in the bottom two tax brackets. Thus, ATRA allows the tax rate on capital gains to revert to its pre-ATRA value of 20 percent for those taxpayers in the new top 39.6 percent tax bracket. ATRA also makes permanent the repeal of the 18 percent rate on gains from the sale of assets held for five or more years (8 percent for those in the bottom tax bracket).

(2) Qualified Dividends

Under pre-ATRA law, qualified dividends would have been taxed at ordinary income tax rates for 2013 and thereafter. ATRA permanently extends the preferential rates for qualified dividends enacted by the Jobs and Growth Tax Relief Reconciliation Act of 2003. Under ATRA, qualified dividends are taxed under the same 0/15/20 percent rate structure as long-term capital gains.

C. Temporary Extension of 2009 Tax Cuts

(1) American Opportunity Tax Credit

The American Recovery and Reinvestment Act of 2009 (ARRA) replaced the Hope scholarship credit with the American Opportunity Tax Credit (AOTC) for 2009 and 2010; the Tax Relief Act of 2010 extended the AOTC for two additional years. ATRA further extends the AOTC for an additional five years, through the end of 2017.

The AOTC is different than, and in general is more generous than, the Hope credit in several ways: (a) students are eligible for the first four (rather than two) years of undergraduate study; (b) eligible expenses include book expenses for AOTC purposes, but not for Hope purposes; (c) the income level at which the AOTC begins to phase out is higher than it is for the Hope credit (although the Hope threshold is indexed for inflation and the AOTC threshold is not); (d) the AOTC credit equals 100 percent of the first \$2,000 of qualified expenses, plus 25 percent of the next \$2,000 for a maximum credit of \$2,500, whereas the Hope credit equals 100 percent of the first \$1,000 of expenses plus 50 percent of the next \$1,000 for a maximum credit of \$1,500 (but unlike the AOTC, the Hope amounts are indexed for inflation and would have resulted in a maximum credit of \$1,950 under pre-ATRA law for 2013, whereas the AOTC amounts are not); and (e) 40 percent of the AOTC is available as a refundable credit, whereas the Hope credit is nonrefundable.

(2) Child Tax Credit

ARRA reduced the earnings threshold for the child tax credit from \$10,000 (indexed for inflation) to \$3,000, unindexed. The Tax Relief Act of 2010 extended the reduction through the end of 2012. ATRA further extends the reduction for five years, through the end of 2017.

(3) Earned Income Tax Credit

ARRA increased the \$3,000 addition to the phase-out range of the EITC for married couples to \$5,000 (indexed for inflation after 2009) and expanded the credit for families with three or more children by increasing the credit phase-in rate from 40 to 45 percent; the Tax Relief Act of 2010 extended these provisions through the end of 2012. ATRA further extends them through the end of 2017.

As a result of these provisions, the EITC begins phasing out in 2013 at an earnings level of \$22,690 for married couples with children, compared with \$17,530 for non-married individuals with children. For families with three or more children, the maximum credit value will be \$6,044 up from \$5,372 under pre-ATRA law.

D. Permanent Alternative Minimum Tax Relief

Under pre-ATRA law, the alternative minimum tax (AMT) exemption for 2012 would have been \$45,000 for married couples (\$33,750 for singles) and certain personal credits, such as the CDCTC, would have been limited by a taxpayer's tentative AMT (the amount of tax they would calculate under the AMT rules).

ATRA increases the AMT exemption for 2012 to \$78,750 for married couples (\$50,600 for singles) and allows personal credits regardless of a taxpayer's tentative AMT. For 2013 and later years, ATRA indexes the AMT exemption for inflation.

The AMT imposes a 26-percent tax rate on taxable income for AMT purposes up to \$175,000 and a 28 percent rate on amounts greater than that. Under pre-ATRA law, the \$175,000 threshold would not have been indexed for inflation. ATRA indexes the tax bracket threshold after 2012.

The AMT exemption phases out at a 25-percent rate beginning at a level of taxable income for AMT purposes of \$150,000 for married couples (\$112,500 for singles). Under pre-ATRA law, the exemption phase-out threshold would not have been indexed for inflation. ATRA indexes the threshold for years after 2012.

Under ATRA, all indexed AMT amounts are rounded to the nearest multiple of \$100 (unlike regular tax bracket thresholds, which are rounded to the next lowest multiple of \$50).

For 2013, the indexed values of the AMT parameters are given by

Parameter	Married	Single
Exemption	\$80,800	\$51,900
Tax Bracket	\$179,500	\$179,500
Exemption Phaseout	\$153,900	\$115,400

E. Tax Extenders

ATRA extended through 2013 a number of individual, business, and energy tax provisions that expired at the end of 2011 or 2012. The most significant extenders in each group are described below.

(1) Individual Tax Extenders

- Above-the-line deduction of up to \$250 for teacher classroom expenses.
- The exclusion from gross income for mortgage debt that is discharged (forgiven) by the lender.
- Tax benefits for employer-provided mass transit.
- Allowance of an itemized deduction for mortgage premium insurance.
- The itemized deduction for state and local general sales taxes, in lieu of a deduction for state and local income taxes.
- The above-the-line deduction for qualified tuition and related expenses.
- Tax-free distributions for charitable contributions from IRAs by individuals who are at least 70 ½ years old.

The revenue estimates from the Joint Committee on Taxation (JCT) indicate that nearly half of the 10-year revenue cost of all nine individual tax extenders is due to the deduction for state and local general sales taxes.

(2) Business Tax Extenders

- The credit for research and experimentation expenses.
- The new markets tax credit (\$3.5 billion allocation in 2012 and 2013).
- The 50 percent credit for expenditures to maintain railroad tracks.
- The work opportunity tax credit (WOTC), including eligibility of recently discharged veterans.
- Qualified zone academy bonds (\$400 million allocation in 2012 and in 2013).
- Accelerated depreciation for leasehold, restaurant, and retail improvements.
- Accelerated depreciation for business property on Indian reservations.
- Enhanced charitable deduction for contributions of food inventory.
- An increase in the section 179 expensing amount limit to \$500,000 and the investment threshold for reducing the amount expensed to \$2 million.
- Special expensing rules for certain film and television productions.
- Deduction for domestic production activity income in Puerto Rico.
- The exception for active financing income under subpart F.
- Favorable treatment of certain payments between related controlled foreign corporations.
- Special rules for qualified small business stock.
- Special rule for S corporations.
- Empowerment zone tax incentives.
- 50 percent bonus depreciation.

The most costly business tax extenders over 10 years according to the JCT's estimates are the credit for research and experimentation, the exception for active financing income under subpart F, and 50 percent bonus depreciation. These three provisions lose nearly two-thirds of the total revenue cost of the 31 business tax extenders.

(3) Energy Tax Extenders

- Credit for nonbusiness energy property.
- Credits for biofuel and biodiesel.
- Credit for renewable electricity production.
- Credit for energy-efficient appliances.
- Excise tax credits for alternative fuels.

These five credits account for nearly all of the 10-year revenue cost of the twelve energy tax extenders.

A few provisions that expired at the end of 2011 or 2102 were not extended by ATRA. The most significant such provisions are the following.

- The income and excise tax credits for alcohol fuels and fuel mixtures.
- Expensing for brownfields environmental remediation costs.
- The enhanced charitable contribution for corporate contributions of computers to schools.
- Suspension of the net income limitation on percentage depletion for marginal oil and gas wells.