Forbes



Robert W. Wood THE TAX LAWYER

Jan. 2 2013

Fiscal Cliff, Dairy Cliff, What About The Payroll Tax Cliff?

It is easy to get bogged down in the byzantine detail of the tax laws and forget to look up. You might overlook basic details like whether you are filing on paper or electronically, joint or separate or must itemize. There is much one can overlook, including huge issues.

Some people were talking about the payroll tax hike weeks and months ago. I wasn't and somehow managed



not to consider how big the impact can be. Maybe the payroll tax *hike*—sorry, the failure to extend the temporary payroll tax cut—should have been expected by everyone. Still, I don't think it was.

Indeed, January 2, 2013, the first business day of the year, millions of people around America woke up to all the hype about which tax provisions were in the new weekend warrior tax bill, which were out, and what they needed to know. But there was a real sucker punch, whether or not experts knew it was coming. As of January 1, 2013, every employee in America started *paying* a 2% higher payroll tax.

The payroll tax cut—something people counted on in 2011 and 2012, is gone. Every employee will feel it in their first 2013 paycheck and each

paycheck thereafter. It's the gift that keeps on taking. There's no choice, it's deducted automatically. The employee's share of Social Security climbs from 4.2% to 6.2% yielding smaller take-home.

A \$50,000 a year worker pays an extra \$1,000. Someone earning more than the \$113,700 wage base pays almost \$2,500 more. Should employees file a new Form W-4 to adjust tax withholding? Probably not. Social Security taxes are not deductible. For new tables, see IRS Provides Guidance on Withholding in 2013.

Experts and commentators have different takes. Some say the payroll tax cut should have been retained, extended or made permanent, giving tax breaks exactly where they're needed. See Happy Higher Payroll Taxes. Some view the press about the payroll tax cut's expiration—which is different from a tax increase—as hyperbole. Perhaps it was inevitable, anticipated, even justified. See The World Will Keep Turning, Even With The Expiration Of The Payroll Tax Cuts.

I'm not sure which is right, but I'm inclined to take the former view. What's more, if there were others like me that hadn't looked up, no wonder the press latched on to the payroll tax increase (er, failure to renew a previous tax holiday). Of course, Congress failed to pass many other laws, including Hurricane Sandy relief. See Christie drops bomb on GOP leaders.

Congress also didn't get to the Violence Against Women Act. See <u>House GOP Fails to Act on Violence Against Women</u>. There was no action on long anticipated sales tax reform legislation, and many more. This Congress is over January 3, 2013, but there are <u>Miles to Go Before I Sleep</u>.

Robert W. Wood practices law with <u>Wood LLP</u>, in San Francisco. The author of more than 30 books, including Taxation of Damage Awards & Settlement Payments (4th Ed. 2009 with 2012 Supplement, <u>Tax</u> <u>Institute</u>), he can be reached at <u>Wood@WoodLLP.com</u>. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.