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Down to the Wire

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This is more like a half issue than full one, but I wanted to get some information out before year-end. As I write this, the "dreaded" fiscal cliff remains unresolved and I doubt we will see any meaningful resolution tomorrow. I guess the "geniuses" could come up with a small deal to effectively kick the can down the road again, but it would be a total joke.

If I were President Obama, I would go over the fiscal cliff, let all of the deals expire and allow the spending cuts unless the House agreed to his tax hikes. Then, when the economy begins to weaken, I would come in with my own tax cuts and stimulus, and force it on the republicans. Boehner and the House are in a much more difficult position. If I were them, I would offer tax hikes on those making \$500,000 or \$750,000 or \$1mm, plus offer an immediate stimulus of \$50-\$70 billion plus raising

the debt ceiling in exchange for \$100 billion per year cut for 10 years, plus raising medicare and social security to 70 along with a bipartisan committee on total tax reform.

What will happen in the end? Probably nothing meaningful!

While the markets are putting in one of their weakest late December showings ever, so far the carnage amounts to a few percent off of the major indices. Without any deal or hint of one, stocks could sell off a few more percent and that would put the decline in the routine, regular and expected 4-8% pullback category.

If there is a last minute agreement, stocks could rally the same few percent or so and regain the lost ground from the past two weeks. If stocks do rally in a big way, I think it could set up a selling opportunity. Either way, I do not think we are on the verge of a double digit move, but I will have more after the holiday.

I am sure I will do this a few times, but I want to wish you and your family a very happy, healthy, safe and prosperous New Year!

## **Fiscal Cliff Legislation... A Different Take**

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The following are the words of my friend, Tom McClellan, taken from his Daily Edition newsletter. Tom's parents, Sherman and Marian invented the very popular and useful McClellan Oscillator and Summation Indices.

### **McClellan Publications**

At his press conference today, President Obama said that if the House and Senate leaders do not come to an agreement on avoiding the "fiscal cliff" before Saturday, then he would send his own proposal of tax rate changes to Senate Majority Leader Harry Reid for a "simple up or down vote". It would then presumably be up to the House to either pass that proposal, or look bad.

I am unlike most Americans, and many members of Congress, in that I have actually read the U.S. Constitution. I once swore an oath as an Army officer to support and defend the Constitution against all enemies, foreign and domestic, and to bear true faith and allegiance to it. So I long ago figured that I ought to at least read the thing I was sworn to defend. I encourage everyone to read it (you can read a copy online at [http://www.senate.gov/civics/constitution\\_item/constitution.htm](http://www.senate.gov/civics/constitution_item/constitution.htm)), and I keep a copy in my desk drawer for easy consultation.

When one reads the whole document, one can find out some interesting things. One is that in Article 1, Section 7, it states, "*All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.*" So in other words, if there is a bill crafted for the purpose of raising revenue, and/or adjusting tax rates, then it must come out of the House, and not originate in the Senate.

What that means (to me, at least) is that if the President really were to

send a bill to the Senate which adjusts tax rates, and if the Senate were to pass it, and then if by some unlikely possibility the House were to pass it, such a bill would not be in compliance with Article 1, Section 7. And anyone who has sworn an oath to the Constitution who played any part in moving such a bill forward through those steps would have violated his oath. The upshot is that the President has publicly stated his intention to violate the Constitution, and the press do not seem to be picking up on that angle.

Of course, what the recourse would be is difficult to know. Could I challenge my tax rates in court, if the law which set those rates was improperly passed? The Obamacare bill was ruled to be a "tax" by the Supreme Court (to the surprise of the government's lawyers), and it was allowed to stand even though it did not originate in the House.

There are so many crosscurrents right now with month end, quarter end and year end all just a week away, quadruple options expiration today and the "dreaded" fiscal cliff, still the most overhyped event since Y2K. You almost have to laugh because we have so many clowns in DC running our country; people who would rather spend their time pandering for the cameras than sitting down at the table to hammer out a deal we all know ends up occurring sooner or later.

## **Sound Tax Planning for Year-End**

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Some of our recommendations are always good items to check off your year-end tax planning checklist. They include:

- Make the greatest possible contribution to your 401(k) or other employer-based retirement plan. A contribution of pretax income to a plan not only lowers your taxable income, but also it may be eligible for a matching contribution from your employer to your retirement account. You can enhance your retirement income by contributing enough to receive the maximum match offered.
- Do not leave your 401(k) investments on auto pilot - - review the investment mix to determine if you are maximizing value here.
- Set up or contribute to a 529 college savings plan. Your earnings on these accounts grow tax free as long as they are ultimately used for qualified education expenses.
- In many states, taxpayers are required to pay a use tax on Internet purchases when the seller did not collect sales tax on that purchase. This is a good time to determine whether you might be subject to a use tax so that it's not a surprise later. Determine if you must begin taking a required minimum distribution from a retirement account. Taxpayers

generally must begin taking them during the year in which they reach 70½ (although the first year's payment may be delayed until April 1 of the following year). For 2012, take advantage of the ability to make charitable contributions from your IRA if you have excess retirement savings.

· Wherever possible, use valuable credits, such as the American Opportunity Credit, which can be used for the first four years of college. For eligible taxpayers, it is a dollar-for-dollar reduction of taxes owed. If your tax bill is going to rise, such credits will become even more valuable.

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## **A "To Do" List Before 2012 Ends**

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### **Don't leave money on the table**

In uncertain economic times, many employees put off contributions to retirement accounts, reasoning that they will make up lost ground when times improve. Doing so, however, could result in leaving what is virtually "free" money on the table.

If you have a 401(k) or comparable retirement account where your employer matches your contributions always contribute enough each year to receive your full employer match. Not doing so leaves money on the table. Taking full advantage of an employer match is the best no-risk return you will ever find.

### **If you are over 70 ½...**

You must take a required minimum distribution from your traditional IRA account(s) by year end. Failure to do so could result in a 50% excise tax on the amount required, but not actually withdrawn. If you turned 70½ during 2012, you have some flexibility. You could take your 2012 distribution by December 31st or you could delay it until April 1st of 2013. If you opt for the latter, you still must make your 2013 distribution by December 31, 2013, resulting in two distributions during the calendar year. Every year thereafter, the distributions must be made by year-end.

### **Convert Traditional IRAs to a Roth IRA**

If you are considering converting a Traditional IRA to a Roth IRA and will be paying taxes to convert, make that conversion in 2012 while you know what your tax rate will be. With the Bush tax cuts expiring and

new healthcare taxes beginning to take effect in 2013, there's a chance it could cost you more to convert next year. See article on page 3 on the benefits of a Roth IRA.

### **Establish self-employment retirement accounts**

If you have self-employment income and are eligible to establish an Individual 401k plan or Roth 401k plan, those plans must be established by December 31st, although you will have until your tax deadline in 2013 to fund the account.

### **Make your gifts**

You may think that your money is yours to give away as you please, but the federal government tends to look on excessive gifting as estate tax evasion. Currently you can gift up to \$5 million (\$10 million for couples) over your lifetime without incurring federal gift taxes of 35%. The maximum you can give one person each year without tax implications is \$13,000 (\$26,000 for couples.) This could change in the future, but for now, if you intend to make non-charitable monetary gifts, do so before year end.

### **Push deductions into 2013**

If you expect to be paying higher income taxes in 2013, you might want to look at postponing paying deductible expenses to push them into next year.

### **Talk to your tax adviser**

Before the end of the year, we should have a pretty good idea of some of the tax changes to anticipate in 2013 based on election results. That makes it particularly important to talk with your tax adviser and make certain your finances are set up to minimize the tax bite as much as possible. Paying your fair share shouldn't mean overpaying.

## **Upcoming Appearances**

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Fox Business' Markets Now - January 3rd at 2:00pm

You can view most of the past segments by clicking below.

## **Media Appearances**

(<http://www.investfortomorrow.com/InMedia.asp>)

## **Investment Quotes/Adages To Live By**

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"The only easy day was yesterday."

- The U.S. Marines

"When in doubt, get out!"

"If it's obvious, it's obviously wrong."

-Joe Granville

"It's ok to be wrong, but it's not ok to stay wrong."

"This time is different."

"The markets require the patience of a dozen men."

-Robert Rhea

"Luck is the residue of effort."

"The most bullish thing a market can do is go up in the face of bad news."

"The most bearish thing a market can do is go down in the face of good news."

"The market can stay irrational longer than you can stay solvent."

-John Maynard Keynes

"Government is best which governs least" - Thomas Jefferson

Inflation is the one form of taxation that can be imposed without legislation.

-Milton Friedman

"You cannot legislate the poor into freedom by legislating the wealthy out of freedom. What one person receives without working for, another person must work for without receiving. The government cannot give to anybody anything that the government does not first take from somebody else. When half of the people get the idea that they do not have to work because the other half is going to take care of them, and when the other half gets the idea that it does no good to work because somebody else is going to get what they work for, that my dear friend, is about the end of any nation. You cannot multiply wealth by dividing it." - Dr. Adrian Rogers, 1931

"Bear markets seem to be divided into three phases: the first being the abandonment of hopes upon which the final uprush of the preceding bull market was predicted; the second, the reflection of decreased earnings power and reduction of dividends, and the third representing distressed liquidation of securities which must be sold to meet living expenses. Each of these phases seems to be divided by a secondary reaction which is

often erroneously assumed to be the beginning of a bull market."

- Robert Rhea via Tim Woods

"Free enterprise is a rough and competitive game. Nobody too big to fail. Nobody too small to succeed. It is a hell of a lot better than government control." - Ronald Reagan via Dan Kennedy

"A government big enough to give you everything you want is big enough to take everything you have." - Gerald Ford via Dan Kennedy

"The problem with socialism is that, sooner or later, you run out of other people's money." - Margaret Thatcher

"Diversification alone is no longer sufficient to temper risk... You need something more to manage risk well."

- Mohamed El-Erian

## Friends And Family Plan

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Finally, as you know, our firm and this newsletter continues to grow mostly from your referrals. If you know anyone who is interested in securing their retirement, planning for it or just plain worried about it, please send them here. As always, thanks for thinking of us with your circle of family and friends.

[Sign Up Here](#)

You can also forward this email to family and friends by hitting the "forward email" hotlink at the bottom of this email.



## To Your Financial Success,



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