Planning After the American Taxpayer Relief Act of 2012

Panelists:
- Ken Weiss
- Kevin Neyrey
- Greg Hodelewsky

Estate and Gift Tax Provisions

By: Kenneth A. Weiss
McGlinchey Stafford PLLC

Estate Tax Provisions

The new law will stop major increases in estate, gift and generation-skipping taxes that were scheduled to occur for individuals dying and transfers made after 2012 by "permanently" keeping the exemption level at $5,000,000 (as indexed for inflation).

Estate Tax Provisions

- The Act, however, will “permanently” increase the top estate, gift and GST rate from 35% to 40%.
- Unlike the 2001 Bush tax cuts, most provisions of the law (including the level of exemptions and rates) will not sunset automatically after a few years.

Estate Tax Provisions

- The federal gift, estate and GST rate (after a run up through the rate brackets for the first $1,000,000 of taxable estate, in the case of estate tax, or cumulative gifts in the event of the gift tax) will be 40%.
- The 2013 applicable exclusion amount for estate and gift tax purposes, as well as the GST exemption, will be $5.25 million in 2013, after being adjusted for inflation.

Estate Tax Provisions

- The run up through the brackets for the first $1 million of taxable estate or cumulative gifts will save $54,200.
- In other words, the run up means tax payable generally will be $54,200 less than if the transfer tax were imposed as a flat 40% tax from the first dollar.

Estate Tax Provisions

- For gifts where the donor survives for three years after the transfer, the 40% gift tax rate translates into a 28.57% tax-exclusive rate, according to ACTEC's Ronald Aucutt. Under the prior pre-2013 law, the gift tax "tax-exclusive" rate was about 25.9%.
- For the estate tax, the tax-inclusive rate, which subjects to transfer tax all the dollars in the estate, including those dollars used to pay the estate tax, is 40%.

Key items of prior law are made permanent under the 2013 law. These include:

- The portability election under §2010(c)(4) permitting a deceased spouse's estate to elect that the deceased spouse's unused exclusion amount may be utilized by the surviving spouse has been made permanent. It had been scheduled to terminate at the end of 2012.
- The gift tax lifetime exemption will continue to be equal to the estate tax exemption.
- Indexing of the basic exclusion amount for inflation will continue (thus permitting the $5.12 million 2012 exemption to increase due to inflation to $5.25 million in 2013).

Key items of prior law are made permanent under the 2013 law. These include:

- State death taxes will continue to be deductible under §2058 in calculating the federal taxable estate. As a result, the nation will not go back to revenue-sharing device, the state death tax credit. In states like Louisiana without a state estate tax, the increase in the top marginal federal rate will simply be 5% (from 35% to 40%). In states with state estate taxes, the total tax burden could approach 50%, depending on the state tax rate and whether or not the state has decoupled from the federal system. For example, Massachusetts and New York allow only a $1 million exemption from state death tax.

Key items of prior law are made permanent under the 2013 law. These include:

- In a technical correction, the portability provisions under §2010(c)(4)(B) were amended by striking the phrase “basic exclusion amount” and inserting “applicable exclusion amount” into the text. This fixes a variance between the statute, as originally enacted, and the legislative history, thereby ratifying the result contained in the June 2012 portability regulations which will otherwise remain applicable.

Key items of prior law are made permanent under the 2013 law. These include:

- The issue of “clawback” is rendered moot in light of the fact that the applicable exclusion amount was not reduced. Since the “modern” estate tax was enacted in 1916, the amount of property exempted from the estate tax has never been decreased (although the rate has been increased on occasion, such as in this new law).

Key items of prior law are made permanent under the 2013 law. These include:

- The reader will recall that the original justification for a 35% top gift and estate tax rate, as enacted by the 2001 legislation, was that the 35% rate was to become the top income tax rate as well. With the nominal income tax rate increased to 39.6% under the 2013 law, it would seem logically consistent to also raise the top estate and gift tax to about 40%.

Individual Income Tax Planning

By: Kevin Neyrey, CPA
Ericken, Krentel & LaPorte, LLP

Swerving from the cliff
Tax provisions in the American Taxpayer Relief Act of 2012

14

Individual Income Tax Considerations

- Things that have changed
- Things that are "Back from the Dead"
- Things that are roughly the same

ATRA – Things That Have Changed

- New Individual Income Tax Bracket – 39.6%
- $400,000/$425,000/$450,000
- 33 percent bracket ends at $398,350 for 2013, so very narrow 35 percent bracket

16

2013 Official Tax Brackets

Tax Brackets	Single	Married	Head of Household
10% Bracket	$0 - $8,925	$0 - $17,850	$0 - $12,750
15% Bracket	$8,925 - $36,250	$17,850 - $72,500	$12,750 - $48,600
25% Bracket	$36,250 - $87,850	$72,500 - $146,400	$48,600 - $125,450
28% Bracket	$87,850 - $183,250	$146,400 - $223,050	$125,450 - $203,150
33% Bracket	$183,250 – 398,350	$223,050 - $398,350	$203,150 - $398,350
35% Bracket	$398,350 - $400,000	$398,350 - $450,000	$398,350 - $425,000
39.6 Bracket	$400,000 -	$450,000 -	$425,000 -

17

2013 Estates and Trusts

Tax Brackets	Taxable Income
15% Bracket	$0 - $2,450
25% Bracket	$2,450 - $5,700
28% Bracket	$5,700 - $8,750
33% Bracket	$8,750 - $11,950
39.6 Bracket	$11,950 -

18

ATRA – Things That Have Changed

- New 20 percent long-term capital gains rate for income attributable to the highest tax bracket
- Also applies to qualified dividends
- AMT Patch Permanent
- Annual Inflation Adjustment

19

ATRA – Things That Are "Back From The Dead"

- Pease Limitation Is Back
- Thresholds:
  - MFJ: $300,000
  - Head of Household: $275,000
  - Single: $250,000
  - Married Filing Separately: $150,000
- 3 Percent of AGI Over Limitation / 80 Percent
- Medical, Inv Int, Casualty, Gambling N/A

20

ATRA – Things That Are "Back From The Dead"

- Personal Exemption Phase-out Is Back
- Thresholds:
  - MFJ: $300,000
  - Head of Household: $275,000
  - Single: $250,000
  - Married Filing Separately: $150,000
- Reduce PE by two percent for every $2,500 ($1,250 MFS) or portion thereof over limit

21

ATRA – Things That Are Roughly The Same

- Employer Provided Educational Assistance (Permanent)
- Above The Line Teacher Expense Deduction (Permanent)
- Mortgage Debt Forgiveness Exclusion For Personal Residences (2013)
- Exclusion For Transfer of IRA Distribution Directly To Charity (2013) (Jan Opportunity)

22

Miscellaneous Things To Know

2012 Individual Income Tax Returns Accepted By IRS Starting January 30, 2013… UNLESS You Claim Depreciation

ANY Charitable Contribution Over $250 Per Year MUST Receive A Confirmation Letter, With Certain Required Language

For Tax Year 2013, New Option To Determine Home Office Deduction - $5 Per Square Foot

Have You Thought About A BP Claim?

Hurricane Isaac Unreimbursed Damage May Be Tax Deductible

Social Security Withholding Now Back To 6.2%, Up From 4.2%

April 15, 2013 Is Last Day To Claim 2009 Tax Year Refunds (But May Be Held If You Have Not Filed Following Years)

23

The Patient Protection and Affordable Care Act

0.9 Percent Additional Medicare Tax

- Assessed on combined wages and self-employment income over a certain threshold
- Thresholds not currently indexed for inflation
- Joint return – assessed on combined wages
- Based on Box 5 Medicare wages

25

0.9 Percent Additional Medicare Tax

Threshold Amounts:

- Married Filing Separately - $125,000
- Unmarried - $200,000
- Married Filing Jointly - $250,000
- Not adjusted for inflation

26

0.9 Percent Additional Medicare Tax

Things To Consider:

- Employers supposed to automatically withhold on wages paid over $200,000
- Unlike “traditional” Medicare tax, additional tax is not matched by the employer

27

0.9 Percent Additional Medicare Tax

Example:

- Husband W-2 Box 5 wages $175,000 and Wife Schedule C income of $120,000
- Total additional Medicare Tax
  ($295,000 - $250,000) x 0.9 percent = $405
- May not be covered by withholding

28

3.8 Percent Medicare Tax On Investment Income

- Assessed on lesser of:
  - Net investment income
  - Modified Adjusted Gross Income over threshold
    - Modified Adjusted Gross Income is equal to Adjusted Gross Income increased for foreign income excluded under IRC Section 911
- MAGI threshold ensures that only higher-income taxpayers subject to this tax

29

3.8 Percent Medicare Tax On Investment Income

Threshold Amounts (Individuals):

- Married Filing Separately - $125,000
- Unmarried - $200,000
- Married Filing Jointly - $250,000
- Not adjusted for inflation
- Nonresident Aliens not subject (unless IRC 6013 election in place)

30

3.8 Percent Medicare Tax On Investment Income

What is investment income?

- Income from interest, dividends, annuities, royalties, and rents (after allocable expenses)
- Other income from passive activities
- Net capital and ordinary gains from disposition of property not used in active trade or business ($3,000 loss not available)
- Includes Form 8814 income over threshold

31

3.8 Percent Medicare Tax On Investment Income

What is investment income?

- Portfolio income passed through is subject to the Net Investment Income Tax, even if the activity is considered non-passive
- Sale of S Corporation stock or partnership interests may be subject to the tax

32

3.8 Percent Medicare Tax On Investment Income

What is not investment income?

- Income derived from active trade or business
- Retirement plan distributions
- Non-Taxable income such as tax-exempt interest
- Capital gain from sale of personal residence (to extent of income tax exclusion)

33

Complicating the Code

Economists often debate the impact of tax code complexity on taxpayer behavior and decision making . In a worst case scenario, a more complex tax system places an economic drag on the economy and makes the tax system more opaque, complicating and impeding economic and financial decisions.

34

Complicating the Code

- By making permanent many expiring provisions of law, by some metrics the American Taxpayer Relief Act will reduce the complexity driven by uncertainty about future tax rates.
- In other ways, however, the Act can be seen as increasing the complexity of the code.

35

Complicating the Code

To illustrate, long-term capital gains from the sale of typical appreciated stock and dividend income paid by a publicly traded company will now potentially be subject to four different tax rates:

36

Complicating the Code

- Zero percent for long-term capital gains or dividends for taxpayers in the first two tax brackets (10 and 15 percent);
- 15 percent for long-term capital gains or dividends of taxpayers taxed in other brackets up to the AGI thresholds ($200,000 and $250,000 for single and joint filers, respectively) used for determining the applicability of the 3.8 percent net investment income tax enacted in the Patient Protection and Affordable Care Act of 2010 that became effective on January 1 of this year;

37

Complicating the Code

- 18.8 percent for long-term capital gain and dividend income taxed between the net investment income tax thresholds and the new thresholds for defining high-income taxpayers for the top ordinary income tax bracket ($400,000 and $450,000 for single and joint filers, respectively); and
- 23.8 percent for long-term capital gains and dividends taxed above the top ordinary income tax bracket thresholds (the combination of the new top 20 percent tax rate on net capital gain and the 3.8 percent net investment income tax).

38

Complicating the Code

This range of tax rates does not take into consideration other types of capital gains transactions that have unique rates, for example, unrecaptured section 1250 gain and collectibles taxed at 25 percent and 28 percent, respectively.

39

Individual income tax planning considerations

In general – Despite some alteration of the individual income tax landscape for 2013 and beyond, tax planning methods used by individuals during the past decade will largely go unchanged. Much of the planning will focus on the individual's specific fact pattern and objectives – for example, managing tax on income when realized and enhancing the benefit of deductions and exclusions – rather than issues related to changing income tax rates.

40

Individual income tax planning considerations

Investment income – Those who have substantial investment income can now make decisions about rebalancing investment portfolios with a sense of certainty about the tax impact of earning dividend income or capital appreciation. Other tax planning issues such as acceleration of income or deferral of deductions become less relevant in the short term.

41

Individual income tax planning considerations

Planning for net investment income tax – Taxpayers should also examine the effect of the new net investment income tax for high-income individuals enacted as part of the Patient Protection and Affordable Care Act that took effect at the start of 2013. This 3.8 percent tax applies to income traditionally considered "investment income" (interest, dividends, rents, royalties, capital gains), but also applies to "passive income" (typically, business income if the taxpayer does not participate in the business). Proper planning, especially with respect to passive income, may reduce this tax.

42

Individual income tax planning considerations

AMT planning – Individuals should examine their tax position every year to understand the possible effects of the AMT and how best to plan their taxes in that light. Someone who expects to be in AMT one year but not the next could consider accelerating ordinary income or deferring deductions that provide no AMT benefit. Conversely, a taxpayer who owes no AMT in the current year but expects to in the next could consider accelerating deductions that would not be allowable for AMT purposes next year into the current year or deferring ordinary income. A chronic AMT taxpayer would want to consider avoiding private activity bond investments, paying off home-equity debt that is not deductible for AMT purposes, or if possible, taking some deductions "above the line" – that is, taking a deduction prior to calculating adjusted gross income.

43

Individual income tax planning considerations

Tax reform – If lawmakers and the president are successful in orchestrating comprehensive tax reform, individuals and their tax advisors will likely need to evaluate a wider range of tax benefits than those commonly considered in the past. For high-income individuals, certain tax benefits, such as deductions or exclusions, could be scaled back or eliminated as part of a tax reform process. The president, for example, has suggested limiting the tax benefit of itemized deductions and certain income exclusions as part of tax reform.

44

WHITNEY
Trust & Asset Management

The New Normal

March 18th, 2013

Presented by:

Greg Hodlewsky, CFA
Senior Vice President
Investment Director

"If you think you understand what I am saying you may have misunderstood what I think I was trying to say"

-Alan Greenspan

Characteristics of The "New Normal"

Economy / Markets

- 2% (+/-) Real GDP Growth
- Structurally High Unemployment
- Unstable Interest Rates and Inflation (low now – higher later?)
- Lower Returns from Risk Assets

Consumer / Corporate Behavior

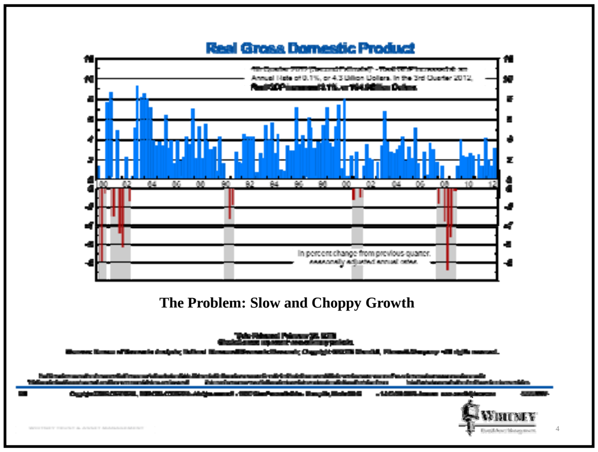
- Risk Aversion
- Deleveraging
- Savings over Consumption

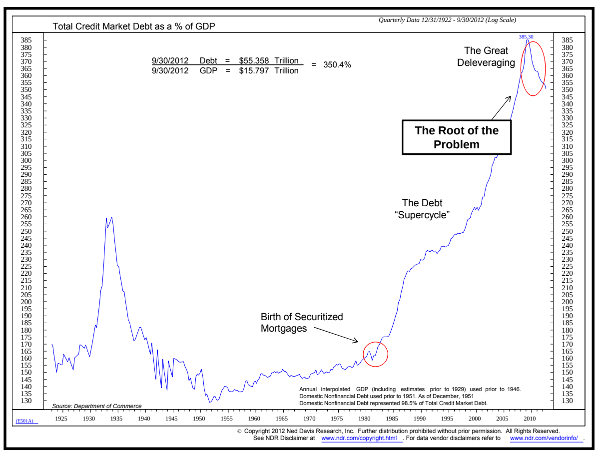
Government Policy

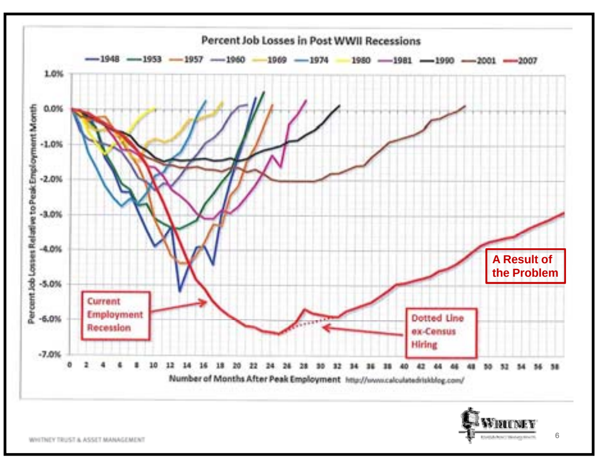
- Potentially Destabilizing Federal Budget Deficit
- Reduced Entitlements and Benefits
- More Regulation and Policy Uncertainty
- Government Intrusion into Private Sector
- Higher Taxes

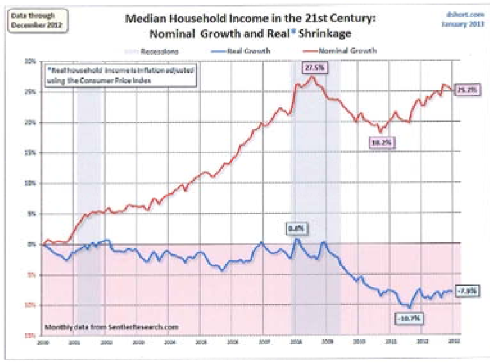
WHITNEY TRUST & ASSET MANAGEMENT

3

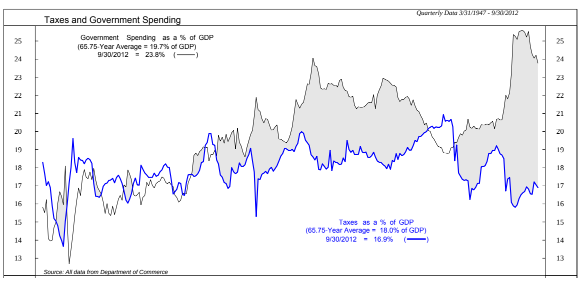

Real Gross Domestic Product
In percent change from previous quarter, seasonally adjusted annual rates.
The Problem: Slow and Choppy Growth
WHITNEY
4


Total Credit Market Debt as a % of GDP
Quarterly Data 12/31/1922 - 9/30/2012 (Log Scale)
9/30/2012 Debt = $55.358 Trillion
9/30/2012 GDP = $15.797 Trillion
= 350.4%
The Great Deleveraging
The Root of the Problem
The Debt "Supercycle"
Birth of Securitized Mortgages
Annual interpolated GDP (including estimates prior to 1929) used prior to 1946. Domestic Nonfinancial Debt used prior to 1951. As of December, 1951 Domestic Nonfinancial Debt represented 98.5% of Total Credit Market Debt.
Source: Department of Commerce
© Copyright 2012 Ned Davis Research, Inc. Further distribution prohibited without prior permission. All Rights Reserved.
See NDR Disclaimer at www.ndr.com/copyright.html . For data vendor disclaimers refer to www.ndr.com/vendorinfo/


Percent Job Losses in Post WWII Recessions
1948 1953 1957 1960 1969 1974 1980 1981 1990 2001 2007
Percent Job Losses Relative to Peak Employment Month
1.0% 0.0% -1.0% -2.0% -3.0% -4.0% -5.0% -6.0% -7.0%
A Result of the Problem
Current Employment Recession
Dotted Line ex-Census Hiring
Number of Months After Peak Employment
http://www.calculatedriskblog.com/
WHITNEY TRUST & ASSET MANAGEMENT
WHITNEY
6



http://advisorperspectives.com/dshort/charts/index.html?census/household-income-monthly-median-growth-sinc... 1/26/2013



WHITNEY TRUST & ASSET MANAGEMENT

8

How Can a Country Solve a Debt Crisis?

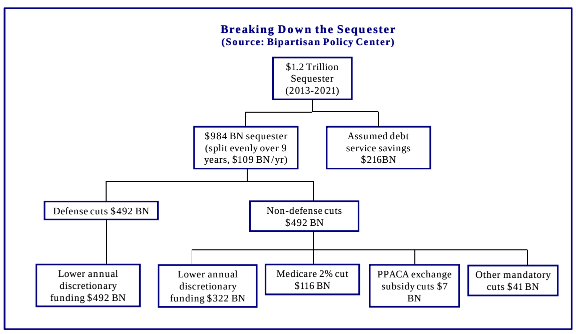
- ~~Generate higher economic growth~~
- ~~Lower interest rates on government debt~~
- ~~Receive a bail-out~~
- Endure austerity through increased taxes and cuts in public spending
- Print money and generate inflation
- Default on the debt

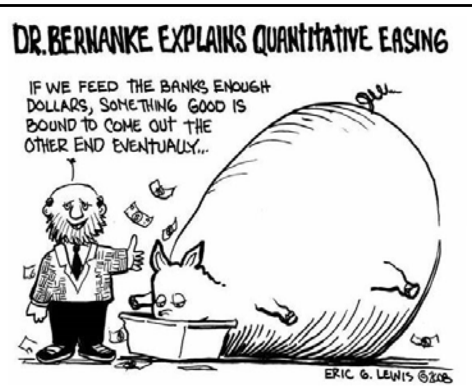
WHITNEY TRUST & ASSET MANAGEMENT

9

"Reader, suppose you were an idiot.
And suppose you were a member of Congress.
But I repeat myself."

-Mark Twain





Quantitative Easing Details

QE (Open Ended or Infinity)

- The Fed will buy $85 billion in new assets per month. ($40 billion in mortgage backed securities)
- Opposed to finite time period, the program will remain in place until economic situation improves
  - Unemployment rate falls below 6.5%
  - Inflation outlook remains moderate (2 ½ % or less)

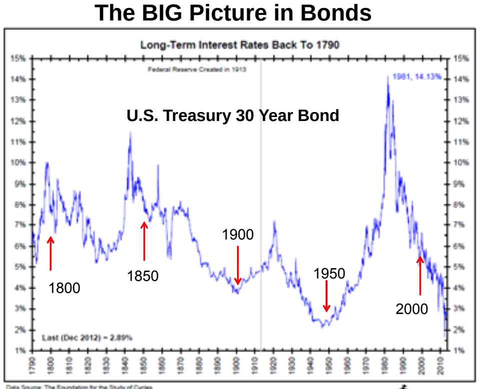
WHITNEY TRUST & ASSET MANAGEMENT 13

"European politicians are expert at snatching defeat from the jaws of victory"

-Unknown

Fixed Income

The BIG Picture in Bonds



The Great Bull Market in Bonds

U.S. Treasury 10 Year Note

New Approach for the New Normal

1. Credit Risk…Not Interest Rate Risk
2. Intermediate Term…More Return Per Unit Of Risk
3. Alternative Investments…REITS, High Yield, MLP's
4. High Dividend Stocks Pay More Than Government Bonds
5. Special Situations – Housing, Oil & Gas, Commodity Related
6. Municipal Bonds…..Less Tax = More Income

The Stock Market

"I get nervous when people are greedy and greedy when people are nervous"

-Warren Buffet

A Look at Stocks as of 2/28/2013

- **S&P 500**
  - 16.00% in 2012, 6.61% YTD
  - 5 year high reached this month
  - Within 3% of all time high
- **Dow Jones Industrial Average**
  - 10.24% in 2012, 7.77% YTD
  - 3/5/2013 reached all time high
- **NASDAQ Composite**
  - 17.75% in 2012, 4.86% YTD
  - Set a new 12 year high
  - A long way from all time high

Issues at Hand

Stock Market Positives

- Easy monetary policy by Federal Reserve (low interest rates)
- Corporate Profitability
- Improvement in housing market (NAHB index)
- Currently low inflation and low interest rates

Stock Market Headwinds

- Continued deleveraging of economy
- Slower economic growth in heavily indebted, aging developed economies (Europe, Japan, UK, and US)
- Unintended consequences of Fed policy (potentially higher inflation and interest rates)
- Government fiscal policy (i.e. higher taxes, more regulations, cuts in spending)

Fearless Predictions

2013 S&P 500 Year-End Price Level Inputs

EPS Growth*

Trailing P/E	0.00%	2.00%	4.00%	6.00%	8.00%	10.00%	12.00%	14.00%	16.00%
EPS $	*$97*	*$99*	*$101*	*$103*	*$105*	*$107*	*$109*	*$111*	*$112*
8x	776	791	807	822	838	853	869	884	900
10x	970	989	1,008	1,028	1,047	1,066	1,086	1,105	1,125
12x	1,163	1,187	1,210	1,233	1,256	1,280	1,303	1,326	1,350
14x	1,357	1,384	1,412	1,439	1,466	1,493	1,520	1,547	1,574
16x	1,551	1,582	1,613	1,644	1,675	1,706	1,737	1,768	1,799
18x	1,745	1,780	1,815	1,850	1,885	1,920	1,955	1,989	2,024
20x	1,939	1,978	2,017	2,055	2,094	2,133	2,172	2,210	2,249

**based on preliminary S&P 2012 EPS of $96.95*

WHITNEY TRUST & ASSET MANAGEMENT

26

2013 S&P 500 Year-End Price Level Inputs

EPS Growth*

Trailing P/E	0.00%	2.00%	4.00%	6.00%
EPS $	*$97*	*$99*	*$101*	*$103*
12x	1,163	1,187	1,210	1,233
14x	1,357	1,384	1,412	1,439
16x	1,551	1,582	1,613	1,644
18x	1,745	1,780	1,815	1,850

**based on preliminary S&P 2012 EPS of $96.95*

S&P	Price Return
1,163	-18%
1,384	-3%
1,426	0%
1,540	8%
1,613	13%
1,850	30%

- As of 12/31/2012, the S&P 500 closed at 1,426 which equates to a P/E of 14.7
- Today we are around 1,540, approaching a P/E of 16x

WHITNEY TRUST & ASSET MANAGEMENT

27

The Winning Formula

The winning formula for investment success in a challenging environment?

Don't forget the basics!

- Adapt to changing circumstances
- Be selective
- Prepare for multiple outcomes
- Diversify broadly
- Always remember that in the long-run, valuation really matters