

Ohnstad Twichell, P.C., is a full service law firm having a general and trial practice in North Dakota, Minnesota, and federal courts and offering services in the fields of probate, real estate, estate planning, corporate, labor/employment law, family law, elder law, municipal finance and bonding, taxation, personal injury, criminal, negligence, commercial, insurance defense, water rights, oil, gas and wind law, and automobile law.

## HIGHER RATES, NEW TAXES, AND LIMITED DEDUCTIONS: WHY YOU MIGHT OWE MORE THAN EXPECTED



**Jacob L. Geiermann** works in the West Fargo office and devotes his practice to estate planning, trusts, probate and business law.

Due to recent changes in federal law, many high income earners might be surprised by the amount of taxes they owe for 2013. The American Taxpayer Relief Act of 2012 has actually increased the amount of taxes owed by many Americans. Some changes are outright rate increases, while others are indirect limitations on deductions, but nevertheless result in additional tax liability.

Tax Rates: The highest tax rate on ordinary income is now 39.6% for income above \$450,000 if married filing jointly, \$400,000 for single taxpayers, and \$225,000 if married filing separately.

Medicare Tax Surcharge: An additional 0.9% tax will be applied against Medicare wages, railroad retirement compensation, and self-employment income. This additional tax will apply to income that exceeds \$250,000 if married filing jointly, \$125,000 if married filing separately, and \$200,000 for any other filing status.

Net Investment Income Tax: An additional 3.8% “Net Investment Income Tax” applies to filers with certain passive income. The 3.8% tax is owed on the lesser of (1) net investment income (interest, dividends, annuities, royalties, rents, capital gains, etc.), or (2) the amount that modified adjusted gross income exceeds \$250,000 if married filing jointly or a qualifying widow(er), \$125,000 if married filing separately, or \$200,000 for any other filing status.

Personal Exemptions: Personal exemptions were increased to \$3,900. However, they now phase-out at certain income thresholds. For married individuals filing jointly, the phase-out begins at adjusted gross income greater than \$300,000 and completely phases out at \$422,500. For single filers, it begins at \$250,000 and phases out at \$372,500. For married individuals filing separately, it begins at \$150,000 and phases out at \$211,250.

Standard Deductions: The standard deduction was increased to \$12,200 for married filing jointly, \$6,100 for single filers and those married filing separately, and \$8,950 for head of household.

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*A legal  
newsletter from  
Ohnstad Twichell, P.C.,  
with offices in  
West Fargo,  
Hillsboro,  
Casselton,  
and Page,  
North Dakota,  
and Barnesville,  
Minnesota.*

Facebook postings  
could create problems  
at work.

Medical and Dental Expense Deductions: The deduction for medical and dental expenses has increased from 7.5% to 10% of the amount that exceeds adjusted gross income, but if the filer or their spouse is 65 or older, the rate will remain at 7.5% through tax year 2016.

Limitations on Itemized Deductions: A portion of the code that expired in 2009 was reinstated. While not an increase in the rate, the effect of this provision is to create additional income tax liability for high income earners. Essentially, filers who itemize their deductions must reduce such deductions by 3% of the amount that their adjusted gross income exceeds a certain threshold. For those married filing jointly, the amount is \$300,000. For single filers and married filing separately, the amount is \$250,000. For example, married filers with an adjusted gross income of \$450,000 and \$75,000 in itemized deductions would be \$150,000 over the threshold. Three percent of \$150,000 equals \$4,500 in reduced itemized deductions and therefore increases taxable income by the same amount. This additional income would be taxed at the 33% bracket, effectively increasing the filer's tax due by almost \$1,500.

Capital Gains Rates: Short term capital gains (for assets held one year or less) are taxed at ordinary income tax rates. Long term capital gains (for assets held more than one year) are taxed at either a 0%, 15%, or 20% rate. Filers in the 10% or 15% brackets will have a 0% capital gains rate. Filers in the 25%, 28%, 33%, and 35% brackets will have a 15% capital gains rate. Filers in the 39.6% bracket will have a 20% capital gains rate. Capital gains may also be subject to the additional 3.8% Net Investment Income Tax explained above.

These changes will have the biggest impact on those taxpayers with significant 1040, self-employment, or passive income, and such filers will likely end up paying more income taxes than they expected. Sound financial and legal planning can at least help keep these issues on your radar for future tax years. To obtain a better idea of your current and expected tax situation, you should speak with your accountant and Ohnstad Twichell attorney.

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### EMPLOYEES FIRED OVER FACEBOOK POSTINGS



**Susan L. Ellison** works in the West Fargo office and devotes her practice to labor law, family law, and elder law.

This interesting set of events comes to us from New Hampshire and involved a center providing after-school programs for high school students.

After a center employee was demoted, she and another employee posted comments about the center on Facebook--about how they would create problems at work by doing such things as allowing students to draw graffiti on the walls and making work difficult for other staff members. Their employer learned of the postings and fired both employees.

The judge hearing this case ruled that the Facebook comments were serious enough to justify termination. In essence, it was found that the employee's activity was not protected because it had a negative impact on student

safety and the center's ability to raise money for programing.

The employee's challenged the firing as an unfair labor practice under the National Labor Relations Act.

Not every Facebook posting will justify a firing; so, employers beware when considering such disciplinary action.

Richmond Dist. Neighborhood Ctr., No. 20-CA-91748 (NLRN ALJ, November 5, 2013).

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### **LUKAS D. ANDRUD PROMOTED TO SHAREHOLDER**



The law firm of Ohnstad Twichell, P.C., is pleased to announce that Lukas D. Andrud was promoted to a shareholder effective January 1, 2014. He joined the firm in 2008.

Lukas graduated from Jamestown High School and earned his undergraduate degree from Concordia College, Moorhead, Minnesota. In 2007, he received his law degree from the University of Kansas School of Law.

Before joining Ohnstad Twichell, Lukas served as a law clerk for the Seventh Judicial District of Kansas, and then he worked as a landman involved in oil and gas leasing in western North Dakota.

Lukas practices in the West Fargo office. He concentrates his practice in the areas of real estate law, oil and gas law, and water law. Lukas and his wife, Karla Knutson, reside in West Fargo.

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### **CHANGES AT OHNSTAD TWICHELL**



**Marshall W. McCullough** works in the West Fargo and Page offices and devotes his practice to corporate/business, estate planning, probate, and taxation

Just like personal lives, businesses change over time. There are many factors that play a part in the changes, including the economy, technology, and the needs of clients. Ohnstad Twichell is no different than other businesses and is currently facing such changes. With the passing of our managing partner, Brian Neugebauer, earlier this year, we were forced to take a close look at where we were, where we are, and where we are headed.

Having worked closely with Brian on firm issues, I was elected President of the firm in January. Our management team includes John Shockley as Vice President, Chris McShane as Treasurer and Ross Keller as Secretary. We are prepared to lead, oversee and continue the quality client services you expect, and that we have become known for in the community.

In the past two years, we have added six associate attorneys and three paralegals to our staff. This is a significant increase to a firm the size of Ohnstad Twichell. These new professionals have been working closely with our other attorneys and are ready to assist you with your legal needs. In addition, we have rented additional space to expand our West Fargo office.

*Ohnstad Twichell continues to provide quality client services*



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attorneys

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OFFICE ADMINISTRATOR & EDITOR  
PEG BUCHHOLZ, CLM, PLS

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While we dearly miss Brian and his leadership, Ohnstad Twichell remains strong, prepared for the future, and ready to provide quality legal services to assist you with your legal needs.

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**GETTING PERSONAL!!**

Andrea Murphy joined Ohnstad Twichell in October 2013 as a Litigation Paralegal. She is originally from Fargo and attended North High. She graduated from the Paralegal

program at Minnesota State University Moorhead in 2005 with a Bachelor of Science degree, having completed an internship with the Marion County Prosecutor's Office in downtown Indianapolis, Indiana. She has also worked for the City of Indianapolis' legal department, a company's corporate legal department and Tax Law Office in Fargo. She is a member of the Red River Valley Paralegal Association and is currently the Parliamentarian. Andrea lives in south Fargo with her husband, Gary. She enjoys playing viola and violin with various groups (from classical to Irish), going to see live music, spending time with friends and family, and traveling.

The information provided in this letter is of a general nature and should not be acted upon without prior discussion with your Ohnstad Twichell, P.C., attorney.

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