



The American Taxpayer Relief Act of 2012: Modifications to the Budget Enforcement Procedures in the Budget Control Act

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The Budget Control Act of 2011 (BCA; P.L. 112-25) established, among other things, statutory limits on discretionary spending and an automatic process of spending reductions if Congress and the President did not enact deficit reduction legislation by January 15, 2012.¹ Both of these procedures involve sequestration—the automatic, largely across-the-board cancellation of previously-enacted budgetary resources. The American Taxpayer Relief Act of 2012 (ATRA, P.L. 112-240), signed into law on January 2, 2013, however, made substantive modifications to these procedures, affecting the possible sequestration of budgetary resources in FY2013.²

Perhaps the most important modifications were to postpone, but not cancel, any potential sequestration of FY2013 resources. To summarize, the ATRA postponed the so-called BCA sequester, originally scheduled for January 2, 2013, until March 1, 2013, and postponed the enforcement of the statutory limits on discretionary spending for FY2013 (i.e., through a sequester), originally scheduled for 15 days after Congress adjourns to end a session, until March 27, 2013 (see **Table 1**). In addition, the ATRA reduced the amount of the spending reductions in FY2013 resources under the BCA sequester by \$24 billion and reduced the statutory limits for FY2013 and FY2014 by a total of \$4 billion and \$8 billion, respectively. This report provides a brief summary of these modifications.

Table 1. Modifications to Dates of Possible Sequester in FY2013

Possible Sequester	Original Date	ATRA Modified Date
BCA Sequester	January 2, 2013	March 1, 2013
Statutory Discretionary Limits Enforcement Sequester	15 days after Congress adjourns to end a session	March 27, 2013

Sources: Sections 251A and 254(f) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by the Budget Control Act of 2011, and Sections 901(b) and 901(c) of the American Taxpayer Relief Act of 2012.

Notes: “ATRA” refers to the American Taxpayer Relief Act of 2012 (P.L. 112-240). The second session of the 112th Congress adjourned *sine die* on January 3, 2013. Therefore, the determination as to any breach of the statutory limits for FY2013 and any sequester presumably would have been required no later than January 18, 2013.

Automatic Spending Reductions Under the BCA

The BCA established an automatic process to reduce spending, partially entailing a sequester of budgetary resources, if Congress did not pass and the President did not sign, by January 15, 2012, legislation reducing the deficit by \$1.2 trillion over the FY2012-FY2021 period.³ No such

¹ For a comprehensive description of the Budget Control Act, see CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan.

² The ATRA, for the most part, included numerous provisions directly affecting the budget, primarily revenues, but also spending. For information on these budget policy provisions, see CRS Report R42884, *The “Fiscal Cliff” and the American Taxpayer Relief Act of 2012*, coordinated by Mindy R. Levit, and CRS Report R42894, *An Overview of the Tax Provisions in the American Taxpayer Relief Act of 2012*, by Margot L. Crandall-Hollick.

³ The BCA amended the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA; Title II of P.L. 99-177, 2 U.S.C. 900-922) by adding a new Section 251A to provide this automatic spending reduction process. The BCA also established a Joint Select Committee on Deficit Reduction tasked with the development of deficit reduction legislation and provided special procedures to encourage the timely consideration of such legislation reported by the (continued...)

legislation was enacted by the deadline. Therefore, the automatic spending reduction process was triggered.

The automatic spending reductions were scheduled to begin on January 2, 2013, with a sequester of about \$109 billion in FY2013 budgetary resources, equally divided between defense (function 050) and nondefense (all other functions) spending.⁴ A sequester, as noted above, entails the automatic, largely across-the-board cancellation of budgetary resources (i.e., spending cuts) in nonexempt accounts.⁵ However, the ATRA postponed that sequester to March 1, 2013.⁶ In addition, the ATRA reduced the amount to be sequestered for FY2013 by \$24 billion, resulting in a total spending reduction amount of about \$85 billion, still equally divided between defense and nondefense spending.⁷ As a result of these changes, an automatic cancellation of budgetary resources (i.e., a sequester) in the amount of about \$85 billion will be ordered on March 1, 2013, unless Congress and the President enact legislation further delaying, modifying, or repealing the sequester.⁸

Statutory Limits on Discretionary Spending

The BCA also established statutory limits on the amount of budget authority provided and controlled through the appropriations process for each fiscal year covering FY2012-FY2021.⁹

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Committee. For further information on the Joint Committee and the special procedures, see CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan, pp. 18-27.

⁴ For a comprehensive explanation of the automatic spending reduction process, see CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan, pp. 27-32. For preliminary estimates of the spending reductions for FY2013, based on congressionally-specified assumptions, see *OMB Report Pursuant to the Sequestration Transparency Act of 2012 (P.L. 112-155)*, September 14, 2012. Such estimates were made prior to the enactment of the ATRA.

⁵ “Budgetary resources” include new budget authority, unobligated balances, and obligation limitations. Certain programs and budget accounts are exempt from any sequestration, such as Social Security benefits and all programs administered by the Department of Veterans Affairs, as provided by Section 255 of the BBEDCA. For further information on the sequestration process, including such exemptions, see CRS Report R42050, *Budget “Sequestration” and Selected Program Exemptions and Special Rules*, coordinated by Karen Spar.

⁶ See Section 901(c) of P.L. 112-240.

⁷ See Section 901(a) of P.L. 112-240. The ATRA also included, apparently to offset this reduction in the sequester amount, provisions to reduce the statutory limits on discretionary spending in FY2013 and FY2014 by a total of \$12 billion and to increase revenues by about \$12 billion (over the FY2013-FY2022 period) by permitting certain retirement accounts to be transferred to designated Roth accounts without distribution. The reductions in the statutory limits are explained in the next section of this report. For further information on the Roth conversions, see CRS Report R42884, *The “Fiscal Cliff” and the American Taxpayer Relief Act of 2012*, coordinated by Mindy R. Levit, pp. 8-9; and CRS Report R42894, *An Overview of the Tax Provisions in the American Taxpayer Relief Act of 2012*, by Margot L. Crandall-Hollick, pp. 28-29.

⁸ In addition to dividing the spending reductions equally between defense and nondefense spending, the BCA requires that the spending reductions are further divided proportionally between discretionary appropriations and direct (or mandatory) spending within each category. The formula specified in the BCA to provide for this proportional division uses the revised statutory limits for discretionary appropriations and the Office of Management and Budget’s (OMB) baseline level of nonexempt accounts for direct spending. For purposes of this calculation for FY2013, the ATRA specifies different statutory limits than the ones that will be enforced on March 27, as explained in the next section of this report. Section 901(e) of P.L. 112-240 specifies the revised statutory limits for purposes of this calculation as \$544 billion for the revised security category and \$499 billion for the revised nonsecurity category.

⁹ Such budget authority, referred to as discretionary spending, represents a portion of total federal spending. The other portion, referred to as direct spending (also referred to as mandatory spending), is generally provided in or controlled (continued...)

These limits are primarily enforced through a sequestration process.¹⁰ Generally, if discretionary appropriations for a fiscal year exceed the statutory limits for that year, the President is required to issue a sequestration order canceling budgetary resources in nonexempt accounts by an amount necessary to eliminate the breach (i.e., the excess spending).

Under the normal operation of this process, OMB would determine whether discretionary spending has exceeded the applicable limits 15 days after Congress adjourns to end a session.¹¹ However, for FY2013, the ATRA postponed the OMB determination to March 27, 2013, the same day the current continuing resolution for FY2013 (P.L. 112-175, Continuing Appropriations Resolution, 2013) expires.¹² The material effect of this change is that a sequester tied to the statutory discretionary spending limits for FY2013, if triggered, would occur no sooner than March 27, 2013.

The ATRA also made modifications to the statutory limits for FY2013 and FY2014 provided in the BCA (see **Table 2**).¹³ First, for FY2013, the ATRA reduced the statutory limits by a total of \$4 billion, \$2 billion each in the security and nonsecurity categories.¹⁴ Under the original statutory limits, the BCA defined the security category to include discretionary spending for the Departments of Defense, Homeland Security, and Veterans Affairs, the National Nuclear Security Administration, the intelligence community management account, and all accounts in the international affairs budget function (budget function 150), and defined the nonsecurity category to include discretionary spending in all other budget accounts. The automatic spending reduction process established by the BCA, as briefly explained above, and triggered on January 15, 2012, revised the security and nonsecurity categories, basically dividing the original discretionary spending limits between defense and nondefense accounts. Under the revised categories, the security category is defined to include discretionary appropriations classified as budget function 050 (national defense) only, and the nonsecurity category is defined to include all other discretionary appropriations.¹⁵ The ATRA, however, in addition to reducing the limits for FY2013, further revised the categories by reverting back to the original definitions for the

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by authorizing legislation that requires federal payments to individuals or entities, often based on eligibility criteria and benefit formulas set forth in statute. Some direct spending is funded in appropriations acts, referred to as appropriated entitlements, but is controlled by the authorizing statute(s). Direct spending, including direct spending provided in appropriations acts, is not subject to the statutory limits.

¹⁰ The BCA amended Section 251 of the BBEDCA to establish the statutory limits and repealed the expiration date in the BBEDCA, restoring the sequestration enforcement process. The statutory limits may be adjusted for specified purposes, such as for Overseas Contingency Operations and disaster relief. The BCA also provided for the enforcement of the statutory limits by points of order during the consideration of appropriations legislation in the House and Senate. (The point of order originally was provided in Section 314(e) of the Budget Act, but was redesignated as Section 314(f) by Section 511 of P.L. 112-78, the Temporary Payroll Tax Cut Continuation Act of 2011.)

¹¹ Section 254(f)(2) of the BBEDCA requires OMB, on that date, to issue a final sequestration report indicating any breach of the statutory limits and, if required, the amount of any sequestration. If OMB determines a sequestration is required, the President must issue an order “fully implementing without change all sequestrations required by the OMB calculations” on the same date. The second session of the 112th Congress adjourned *sine die* on January 3, 2013. Therefore, the determination as to any breach of the statutory limits for FY2013 and any sequester presumably would have been required no later than January 18, 2013.

¹² See Section 901(b) of P.L. 112-240.

¹³ The ATRA did not make any modifications to the statutory limits for FY2015-FY2021.

¹⁴ See Section 901(d) of P.L. 112-240.

¹⁵ Despite this change in the classifications from security and nonsecurity to defense and nondefense, the BCA maintains the original category names as security and nonsecurity.

security and nonsecurity categories. That is, the FY2013 statutory limits, as modified by the ATRA, use the original security and nonsecurity categories.

Second, for FY2014, the ATRA reduced the statutory limits by a total of \$8 billion, \$4 billion each in the security and nonsecurity categories.¹⁶ The BCA originally provided a statutory limit for a single category of discretionary spending (specified as the discretionary category) for FY2014.¹⁷ The automatic spending reduction process triggered on January 15, 2012, as referenced above, replaced the single discretionary spending limit for FY2014 with separate limits for the revised security and nonsecurity categories (i.e., divided between defense and nondefense spending).¹⁸ The ATRA reduced these revised categorical limits (see **Table 2**). Unlike for the FY2013 statutory limits, however, the revised security and nonsecurity (or defense and nondefense) categories were retained for FY2014.

Table 2. Modifications to the Statutory Limits on Discretionary Spending
(in billions of budget authority)

	FY2013	FY2014
Original Statutory Limits	\$686 original security category \$361 original nonsecurity category	\$1,066 original discretionary category
Revised Statutory Limits	\$546 revised security category \$501 revised nonsecurity category	\$556 revised security category \$510 revised nonsecurity category
ATRA Modified Limits	\$684 original security category \$359 original nonsecurity category	\$552 revised security category \$506 revised nonsecurity category

Sources: Sections 251(c) (relating to the original limits) and 251A(2) (relating to the revised limits) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by the Budget Control Act of 2011, and Section 901(d) of the American Taxpayer Relief Act of 2012 (relating to the modified limits).

Notes: “ATRA” refers to the American Taxpayer Relief Act of 2012 (P.L. 112-240). See text for an explanation of the original and revised security and nonsecurity categories.

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¹⁶ See Section 901(d) of P.L. 112-240.

¹⁷ The original statutory limits for FY2015-FY2021 also were established in terms of a single category of discretionary spending.

¹⁸ The original single statutory limits for FY2015-FY2021 also were replaced with separate limits for the revised security and nonsecurity categories, by the automatic spending reduction process triggered under the BCA.